STRATEGIC GROWTH:
Taking Charge of the Future

A BLUEPRINT FOR CALIFORNIA

Report of the Growth Management Council to Governor Wilson

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January 25, 1993

Governor Pete Wilson
State Capitol
Sacramento, California

re. **Growth Management Council report**

Dear Governor Wilson:

It is my privilege and responsibility to transmit to you the recommendations and report of the Governor's Interagency Council on Growth Management, pursuant to your Executive Order W-2-91 dated January 22, 1991.

I also forward to you under separate cover the various interim publications previously released jointly by the Council and the Governor's Office of Planning and Research. A number of additional publications also are underway and form part of the Council's work.

Both the Council and OPR stand ready to undertake such further work as you may direct. I know I speak for all of us in thanking you for this opportunity to make what we hope will be a lasting contribution to California's future. I also would like to thank the other members of the Council, who have devoted many hours to these issues in spite of their other pressing duties.

Sincerely,

Richard Sybert
Chair of the Council

This report, and the effort and concern for the future that went into it, is dedicated to the memory of Otto Bos.

ACKNOWLEDGMENT

It is not possible to list all the talented and dedicated individuals who contributed to this work. However, special mention must be made of those who pulled particularly heavy oars: Carol Whiteside at the Resources Agency, Michael Kahoe at Cal/EPA, Fred Klass at the Department of Finance, John Pimentel at Business, Transportation and Housing, Tom Cook at Housing and Community Development, and Jennifer Nelson at Health and Welfare. Within OPR, virtually every individual would have to be thanked, but in particular Diane Richardson, Nancy Patton, and the talented individuals who work with them in the Legislative Unit; Phil Romero and his troops in the Research Unit; OPR's principal planners Bob Cervantes and Antero Rivasplata, who are outstanding in their field; and Greg Cox in Local Government. Special thanks are also due to Bill McGuire in the graphic arts department, and to my long-suffering executive assistant Judy Caffrey and the rest of the front office, without whom nothing gets out the front door.

Richard Sybert
Sacramento, California

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FOREWORD

The Growth Management Council presents this report and recommendations for review and comment. Our vision of California is as America's leader, economically, environmentally, and socially, and as a model for the world. California is unique in its resources, its diversity, its energy, and its complexity. But we find ourselves now at a crossroads. We must manage and direct the growth and change which is an inevitable part of California's future, just as it has been in the past. We must direct *strategic* growth as a vehicle to rebuild prosperity and infrastructure, create jobs and stimulate both sustained and sustainable growth in the economy, preserve the quality of life, and plan for the future in a way that maximizes the best use of both our human and natural resources.

With nearly 32 million Californians, and more arriving every day, we must re-energize a dynamic economy, sustain high economic growth, and provide new jobs and opportunities for all Californians, new and old. We must preserve our environment and direct development away from sensitive natural areas before they become degraded or endangered. And we must ensure that there will be housing, school facilities, and transportation systems adequate to the challenges of the 21st century. All of this will require streamlining government at all levels — "reinventing government," as the catch phrase has it; the Council is convinced that less government can be better and more efficient government.

Only by managing our growth and by planning for our future can we shape our own destiny. A viable growth management program on the local and state levels is essential to ensure that California will remain a healthy, livable state, with a high quality of life for all, and that our common vision will become a reality.

California in the 21st century can be all we want it to be: a place where people choose to live and do business — where economic opportunity, environmental protection, and a good quality of life support each other. With leadership from the State, with new partnerships from local government, with responsibility from all Californians, we need not suffer growth, we can shape it.

As California continues to grow — and it will — we must manage that growth towards economic prosperity, environmental quality, and a better life for all. Every Californian must do his or her part. Here, on the shores of the Pacific, we can forge a new and better society.

EXECUTIVE SUMMARY OF RECOMMENDATIONS

As California's population continues to grow in the midst of recession and economic restructuring, the Growth Management Council believes that managed growth can and should be a strategic tool to rebuild our infrastructure, create jobs, and provide for sustainable economic growth and prosperity in the context of quality of life and carefully balanced development. It is time for California to build for the future, and to make the most intelligent use of its human and natural resources.

For this reason the Council has eschewed the use of the term "growth management," which has come in too many minds to signify constraint, restriction, and control. There is no doubt that California's resources and environment must and will be protected. But balanced growth and development, properly managed, can at the same time build an economic future. The Council has therefore chosen the term "strategic growth" to emphasize the positive role that careful planning and development can play in California's future.

Overall this is a broader direction than simply adapting California's planning and development process to continuing population growth. The State's economic woes of the past two years — the same reasons that have led to growth management being deferred longer than originally anticipated — have highlighted the potential of careful growth and balanced development as an economic tool to complement the quality of life.

The vision for California's future must include goals in all areas of California life:

- **Natural Resources** — minimize the impact of growth on natural resources, and protect, enhance, and manage those resources on a sustainable basis.
- **Human Resources** — promote a high quality of life for all Californians through training, education, affordable housing, economic opportunity, and quality of environment.
- **Economic Competitiveness** — enhance the ability of the State to retain and attract jobs to provide for the prosperity of California's citizens. In addition, promote an improved business environment to support a broad-based economy, including agriculture and renewable resources; and capitalize on California's unique geographic position, cultural diversity, and consumer base to establish California as a pivotal player in the evolving global economy.

With this as background, the Growth Management Council's basic recommendations are summarized as follows:

1. Infrastructure. State support for local and regional infrastructure is a strong and necessary signal of State policy to plan and build for the future. The Council uniformly believes the State must direct more of its attention and investment to infrastructure. Although the State cannot generally be a banker to local government, it can act to reward jurisdictions that meet State growth guidelines, and help support the market for local debt. The Council proposes expanding the current California Housing Finance Authority (CHFA) to a general infrastructure agency, the California Infrastructure Finance Authority (CIFA), to act as a State infrastructure bank. The new CIFA should provide 50-50 matching grants to local government for infrastructure improvements that are consistent with growth guidelines (see below). Recognizing existing fiscal constraints, the Council supports substantial State bonding, through new or redirected resources, to fund this effort as a necessary investment

in California's future economic prosperity. The Council recognizes that the question of where this money comes from (or from whom it is redirected) is one that must be decided. CIFA should also offer technical assistance in planning and financing infrastructure. Among other things, it should publicize the ability to pledge local shares of Vehicle License Fees and other financing tools (*e.g.*, pooling, interest rate buy-downs) as ways to lower local borrowing costs.

In addition, all State infrastructure funds and mechanisms, whether direct funds or loans, should be used in accord with voluntary State growth guidelines. Allocation of State bond revenues should be set to the maximum extent practicable in accordance with those guidelines, and with the priorities established in the State Capital Improvements Plan (see below). In addition, local and government entities should be permitted to utilize certain State-sanctioned infrastructure financing vehicles — developer fees, Mello-Roos districts, Lighting and Landscaping Act districts — only if their local plans have first been certified as consistent with State growth management goals and standards. The Administration should continue to support simple majority local bonds for local school facilities (ACA 6), and examine reduction of required voting majorities for other essentially local facilities (*e.g.*, jails and parks). Finally, any water transfers should be contingent on the transferee meeting growth guidelines to ensure that the water is used wisely.

With respect to school construction, which the Council regards as a critical need for California's future, the Council supports a State "safety net" program to provide portables to local school districts as a last resort; additional State support for districts that lack bonding capacity for school construction, with school financing otherwise to be predominantly local by majority vote; streamlining the school construction application and plan check process; and greater flexibility in meeting Building Codes. School construction financing should be integrated with local infrastructure generally.

2. Housing. Affordable and well-located housing is key to strategic growth. The proposals in this report should materially promote provision of housing through better integrating of planning and environmental review, through permit streamlining, through greater State support of related infrastructure, and through growth guidelines that include incentives for densification, "fair share" housing or other performance standards, better jobs/housing balance, and closer integration of transit and housing.

In addition, the Council believes fiscal incentives for housing should be considered, such as reallocation of the increment of local sales tax. Another funding source could be redevelopment set-aside funds for housing that are not being fully or effectively used by all local governments. A combination of clearer performance standards in the provision of housing, backed by meaningful fiscal incentives, could be effective in better meeting California's housing needs.

3. Integration and Coordination of State Planning. A growth strategy should be a vehicle for streamlining State planning generally, and making it both simpler and more consistent. OPR should coordinate, at five-year planning intervals with mid-interval updates, an Integrated State Plan. The Integrated State Plan would *not* be new central planning, but an integration and streamlining of the largely uncoordinated planning and existing law that already exist at the state level.

Ultimately a local government or State office should be able to refer to the Integrated State Plan and find or have identified all State material applicable to planning and land use. The

goal of the Integrated State Plan should be to simplify, streamline, and make consistent the welter of sometimes conflicting and often confusing State policies and mandates which local governments must consider today. All State agency plans or policies that bear directly on the Integrated State Plan should go through a consistency review by OPR; policies and planning should no longer be undertaken in a single-subject vacuum.

The Plan should incorporate, where possible integrate, and where necessary mediate, existing State plans, policies, and statutes. These include clean air; water quality; congestion management; "fair share" housing; solid and hazardous waste; local planning requirements; environmental review; and water conservation.

In addition, the Integrated State Plan should include suggested broad voluntary guidelines, cast to the degree possible as performance standards, for local and regional entities in various areas relevant to growth:

- resource identification and conservation
- removing barriers to housing
- local permit streamlining
- consultation with neighbors
- infill/densification
- efficient infrastructure (funding and capacity)
- jobs/housing balance
- transit/housing integration

Overall, these guidelines should be directed toward more sensible land use patterns, including provision of housing, environmental protection and resource conservation, cost-effective provision and use of necessary infrastructure, and closer integration of transportation, housing, air quality, and energy.

Final decisions on land use ultimately must be made by local elected officials. In this, the Council's recommendations differ from various growth management proposals which would provide for more mandates from Sacramento. However, the State can, as it does now for both CEQA and general plans, provide useful guidelines, model ordinances, and other assistance. In addition, the State should focus its assistance on those local communities who are willing to grow responsibly. Accordingly, consistency with the Integrated State Plan should be a condition or a competitive criterion for receiving future State infrastructure funding or loans, a condition to new use of infrastructure financing mechanisms such as Mello-Roos, Lighting and Landscape Act assessments, and developer fees, and a condition to receipt of any additional water transfers.

The Plan should establish clear goals of quality of life, orderly development, and sustainable economic prosperity. It should be in the context of adequately providing for California's expected population and economic growth. OPR should undertake a program of trend projection and analysis of alternative growth scenarios and assessment of the implementation measures necessary to achieve each alternative. Development of statewide growth management and land use policies, and integration and consistency of planning by OPR are already authorized by, *inter alia*, Government Code Sections 65030.1, 65031, 65032, 65035, 65036, and 65040.

The Integrated State Plan should include:

(i) Capital Improvements Plan (Finance/OPR lead). An integrated, long-range capital improvements plan for State infrastructure, prioritized through interagency review and informed by the growth guidelines. Funding sources should be identified. There should be a renewed focus on infrastructure, for three reasons: (a) the State will literally start falling apart under the weight of growth unless we begin seriously attending to infrastructure needs; (b) there needs to be a visible signal to both business and individual taxpayers of a new direction and priorities being established in California government; (c) construction provides jobs.

(ii) Economic and Employment Development Plan (Trade & Commerce Agency, EDD, and other interested departments). This is intended not as "industrial policy," but as strategic measures generally to enhance California's business climate and employment opportunities. The State should welcome all sustainable and productive economic activity.

(iii) Resources Protection and Conservation Plan (Resources lead). The State should provide definitions and criteria (and to the extent identification and inventories currently exist, data) for local inventory and classification of resource lands of Statewide significance, with prioritization within and between classifications as to importance of conservation and protection. Guidelines should also suggest appropriate alternative conservation and protection mechanisms, and should not "overclassify" to leave insufficient land readily available for sustainable and balanced development.

(iv) Water Plan (Resources lead). A long-range State water plan, including storage and conservation, supply, and balanced wildlife and fisheries protection, consistent with DWR planning and accepted recommendations of the Governor's Long-Range Water Policy Task Force.

(v) State Environmental Protection Plan (Cal/EPA lead). Integration of air, water, hazardous waste, and other environmental protection on a Statewide basis. Regulatory reporting requirements should be consolidated, and common reporting/information systems developed for State and federal environmental programs.

(vi) State Energy Plan (CEC or other lead). The current Biennial Report, or its successor.

(vii) Statewide Housing Plan (HCD lead). This should coordinate and direct the activities of the State's housing providers (currently 15 State entities have housing programs); comment and suggest regarding housing-related activities of other State entities (*e.g.*, State infrastructure investments); and offer guidelines and technical assistance for housing plans of local governments. The State Housing Plan and planning guidelines should incorporate regional housing needs allocation (*i.e.*, "fair share"), and should also identify regulatory barriers to housing, including review of specific zoning measures such as large lot minimums; large-scale downzoning; permit caps and moratoriums; excessive developer fees; rent control; unsupported denial of water availability; and unnecessarily strict or expensive building codes. Housing performance goals should be simplified. The federal Comprehensive Housing Affordability Strategy should be incorporated into the Statewide Housing Plan.

(viii) Unified Statewide Transportation Plan (Caltrans lead). A unified statewide transportation plan (probably the statewide plan now under way pursuant to the new federal

Intermodal Surface Transportation and Efficiency Act, or ISTEA, and its implementing State legislation, SB 1435), integrated and consistent with air and housing plans. The plan would treat all means of meeting transportation demands, including ports and airports, as a single unified system; and prioritize State transportation investments on the basis of leverage in conjunction with State investments in other infrastructure such as housing, sewers, etc. Flexible funding should be made part of any implementation strategy for the statewide transportation plan. Existing State transportation funding mechanisms should be inventoried and examined by Caltrans, and modal restraints (*e.g.*, road only, or rail only) removed.

4. Local Comprehensive Plan. The general plan should be reinforced and strengthened as the central tool for planning, and renamed the Local Comprehensive Plan. OPR should issue new local plan guidelines, consistent with and inclusive of the voluntary State growth guidelines, to update the current seven specific elements of a general plan, and, consistent with the Integrated State Plan, incorporate and integrate all relevant State policies and statutes, including housing, air, solid waste, CMP, agland and historic preservation, open space and parks, water quality, school construction and other infrastructure, including financing. The housing component of the local guidelines should be streamlined and improved over present housing element law. Where possible consistent with statutory mandates, local plan guidelines should be in the form of performance standards, with the methods of achieving them to be left to the local jurisdiction. Local guidelines are already authorized under, *inter alia*, Government Code Section 65040.2.

Each Local Comprehensive Plan should also specify methods of coordinating planning with the jurisdiction's neighbors, and provide for notification to neighboring jurisdictions of the comprehensive plan process. All facilities and bodies, including State facilities, school districts, and other special districts, should be considered and addressed in each jurisdiction's Local Comprehensive Plan.

Local Comprehensive Plans should be copied to the regional COG and to OPR, who should maintain regional and central databases of such plans, respectively. Some method should be devised to certify consistency of local comprehensive plans with planning guidelines. Such an oversight function by COGs is possible although not likely to be universally accepted; alternatives are subregional review at the county level, direct State review, or local self-certification with State and/or COG audit. The current separate housing element review could be replaced, and its concerns met, with a combination of clear housing performance goals and meaningful financial incentives such as reallocation of sales tax, discussed below. Whatever local planning process is adopted, housing should be included and treated in the same process, and the result should be integration and better implementation of housing goals.

New, reformed COGs (see below) should prepare regional reports for submission to OPR. These reports should address the aggregate performance of local jurisdictions within the COG area in meeting State growth management goals and standards, based on their local Comprehensive Plans. COGs should not have the authority to devise regional plans and strategies other than as their members may agree.

The Local Comprehensive Plan should provide a much greater degree of certainty than now for both resource protection and development. It should specify where development will be permitted, on what terms, and according to what criteria. Each Plan should also include a long-term capital facilities (infrastructure) and financing plan, including school construc-

tion. There should be a rebuttable presumption that each jurisdiction should provide sufficient development capacity to accommodate an anticipated "fair share" of projected growth. To the extent consistent with CEQA reform (see below), project-specific review should be limited to whether a proposed development meets the stated criteria.

Challenges to the adequacy of a Local Comprehensive Plan should be by administrative procedure to the local Council of Government (in a multi-county area, possibly at the subregional level) and then OPR, initiated by a jurisdiction within the same COG, by any interested State department or agency, or by qualified third party under traditional common law standing. Subsequent court review after administrative remedies are exhausted should be subject to an abuse of discretion standard. Land use disputes generally, including CEQA disputes, should be subject to formal mediation, and then to the same administrative and judicial review if necessary.

Preparation of the Local Comprehensive Plan, as well as the accompanying Master EIR described below, may be a State mandate and in any event will be a significant expense for local government. Total expense could reach $100 million or more. Funding mechanisms which may include State assistance should be identified. One alternative would be a General Obligation bond, although the use of bonded indebtedness for operational expenses, even of such a longer-term nature, would be a marked change from existing practice. Another alternative would be local permit fee anticipation bonds, since under this proposal much of the local planning effort would be at the front end. The Council believes the local funding question ultimately must be addressed. However, it may be deferred for a time because any substantial new mandated local planning logically would await completion of the State's own integrated planning effort.

5. CEQA Reform. The California Environmental Quality Act (CEQA) should be revised to reduce uncertainty, improve assessment of cumulative environmental impacts, and reduce duplicative project-by-project review for routine development that can be treated at the plan level. Environmental assessment and land use planning should be more closely integrated to improve both. Each jurisdiction should prepare a Master EIR (Environmental Impact Report), or MEIR, contemporaneous and consistent with the Local Comprehensive Plan. The MEIR should identify, as per OPR local plan guidelines, those especially environmentally sensitive areas requiring further study or full, project-specific EIRs for development.

The Local Comprehensive Plan and subsequent zoning ordinance should set clear criteria for routine development including infill, and smaller projects. Subsequent, project-specific environmental review would be carefully limited to ensuring that the project is consistent with these criteria, and performing a tiered EIR or mitigated negative declaration only to address any additional aspects honestly unique or particular to the project. State, regional, or local plans that already incorporate reasonable environmental review should not additionally require an EIR. There should be procedural changes in CEQA including tightened definition of "project," provision of attorney's fees, tighter statutes of limitation, and limits on standards of review in order to discourage its use for delay or reasons other than CEQA's purpose, namely the provision of sound environmental analysis and information to decision-makers. Similar conditions should attach to challenges of permit decisions. CEQA should also be revised if needed to provide for regional or Statewide mitigation banking. Finally, the role of the State Clearinghouse in coordinating State review of CEQA documents should be strengthened.

Both the Master EIR and Local Comprehensive Plan would be updated every five years, unlike current law (widely ignored) which requires only that a general plan be "current." Local jurisdictions would be empowered, if they wish, to fuse their Master EIR and Comprehensive Plan into a single document. Amendments should be allowed only once a year, instead of four times a year as now permitted.

Stronger alternatives to these recommendations would be to exempt designated development areas from CEQA, or to prohibit third party private suits now permitted under CEQA. These are discussed in the CEQA appendix to this report.

6. Single-Issue Permit/Permit Streamlining. The basic building blocks should be put into place for an eventual single land use permit, or the Single-Issue Permit. This must be a cooperative interagency and intergovernmental effort, with full participation by local government. This effort is already underway pursuant to Executive Order W-35-92. An interagency task force, coordinated through the Office of Permit Assistance (OPA), has been charged to formulate guidelines for each permitting agency and department, such as those within Cal/EPA, to proceed internally to streamline its permitting, and work through the task force to integrate it with any other State and federal permits. OPA has also been charged, under existing statutory authority, to form a second task force to design streamlined permitting guidelines with local government. In addition, OPA should prepare and provide a master list of permit criteria, integrating those from existing permitting agencies. The goal should be a single land use/environmental permit, issued by the traditional local permitting authority – city or county – but mandatorily informed by integrated State and regional criteria.

The basic idea is to (1) reduce the number of permits that must be obtained; (2) concentrate as much as possible of actual permit administration at the local level. This also offers a further opportunity for the State to sort out and assess the aggregate impact on development of all its policies, through the criteria integration process. This streamlined and integrated approach should make California more competitive with other states.

Alternatively, because complete permit integration may face obstacles, to avoid additional administrative and technical burdens on local governments, a consolidated State permit process can coordinate closely with and funnel into a comprehensive local permit process to achieve the same end. In any event, the State should continue to supply necessary technical and scientific assistance. Other options should also be explored, including industry compliance plans in lieu of environmental permits, State delegation agreements to local jurisdictions with sufficient staff resources, and use of lead agency agreements.

The Office of Permit Assistance already has statutory authority under, *inter alia*, Government Code Sections 65922.3 and 65946, to develop consolidated or master State permit forms, and to assist local governments in doing the same.

7. New and Reformed COGs. The structure, procedures, and configuration of Councils of Governments (COGs) should be re-examined and revised to make new COGs the vehicle for streamlining the plethora of regional bodies that already exist, and to reduce and simplify the overall level of government and regulation. In addition, the role of the COGs as regional forum and information clearinghouses should be strengthened. New COGs should have no taxing authority, no general land use powers, and no operational duties beyond those they may currently perform, or set forth below.

OPR should designate, after local input and hearings, existing and new COG regions, and recommend any procedural changes in COG governance. Included in this process should be a determination whether COGs are needed in regions that do not currently have them. Subregions might be designated in the larger COGs, with the COG and subregions mutually to determine an appropriate division of the duties listed below, failing which OPR should do so. Since considerable misgivings have been voiced from various constituencies with respect to expanded roles and authority for COGs, the public process described above should proceed carefully but deliberately. There should be recognition that this is a difficult area involving charged issues of local autonomy, balance between cities and counties, and responsiveness at the subregional or county level.

State agencies should be encouraged to align regions and districts wherever possible with growth management regions, if it makes sense to do so in light of the purpose of the agency regions or districts, in order to effect regulatory efficiency and decrease fragmentation; or should otherwise take steps to cooperate in coordination with new COGs.

New COGs or their county-level subregions should perform the following functions:

(a) regional Congestion Management Planning;

(b) regional solid waste and low level hazardous waste (Tanner) planning;

(c) an improved process for regional "fair share" housing needs allocations, including creation of a market mechanism to effectively trade allocations within a region;

(d) creation of mechanisms to tie jobs growth to housing within a region or subregion;

(e) creation of a market mechanism to voluntarily site locally undesirable land uses (LULUs) such as landfills within a given region;

(f) creation of a regional mitigation banking scheme to provide greater flexibility in meeting environmental needs, by allowing environmental impacts of development in one area to be offset by environmental protection in another;

(g) current Regional Transportation Planning Agency duties; separate RTPAs should be consolidated in urban areas where COGs exist;

(h) approval of any new Special Districts, and conduct of feasibility studies of consolidating existing ones;

(i) assembly and possible review of Local Comprehensive Plans to ensure consistency with State growth guidelines;

(j) preparation of regional reports to OPR detailing the aggregate performance of the region in meeting the State's growth management goals; over time, these may become regional comprehensive plans, but they should reflect local plans within the region and not confer any independent authority;

(k) coordination of regional planning activity with State agencies and departments.

Consideration should also be given in future to consolidation of other regional functions, including in some instances some of the functions that may at present be performed by county LAFCOs and by Airport Land Use Commissions (see discussion in Appendix).

Funding for new COGs should come from existing COG funding and that of any other bodies or functions to whose duties they would accede.

8. OPR Assistance. OPR should substantially strengthen and increase its planning and technical assistance to local jurisdictions. Statutory authority to do so already exists under, *inter alia*, Government Code Section 65040(l) and (n). OPR should develop standard, accepted planning products that will carry legal presumptions of legal validity. Other State agencies and offices, such as Cal/EPA, Caltrans, HCD, and Resources, should also continue and strengthen their local technical assistance.

9. Rural Development. A joint program should be developed by Resources, Trade & Commerce, and OPR, building on existing and planned efforts and programs of those agencies and their departments, and drawing on available federal assistance, to direct and promote growth to depressed, resource-dependent areas of the State that want and welcome it.

10. Water. A long-term water strategy for California, as recommended by the Governor's Long-Range Water Policy Task Force, is essential to meet expected growth. As part of this strategy, any transfer mechanisms should be on such terms and conditions as further the State's growth guidelines.

11. Congestion Management Planning. The CMP process should be utilized for full regional coordination by COGs, which should fold in the existing planning functions of current regional transportation agencies. Additional changes should be made in the CMP process: CMPs should address the entire transportation system; current exclusions for interregional travel, travel between counties, and travel from low income housing should be changed; the CMP process should specifically provide for special traffic control measures (*e.g.*, staggered work hours, HOV requirements) for principal arterials that fall below level-of-service standards; and "principal arterials" should be defined.

12. Air Quality and Environmental Reforms. (a) Air quality is an important element of growth management and land use planning, and should be addressed through consideration of indirect source considerations, should they remain an issue, in the Integrated State Plan process and planning guidelines. This should also avoid the debate about air districts directly exercising local land use authority. (b) Local and regional air districts should be consolidated on a regional basis (most already are) in urban areas. (c) Greater cooperation among air districts, COGs, and transportation planning agencies is needed, one example being joint designation as Lead Planning Organizations (LPOs) for conformity with federal air quality requirements. (d) The environmental permit streamlining effort undertaken by Cal/EPA should be supported consistent with these recommendations, and should fit with similar efforts of other State permitting authorities and with overall interagency permit streamlining coordinated through the Office of Permit Assistance. (e) Cal/EPA should pursue market and incentive-based regulatory mechanisms, including markets in emissions rights. (f) Through Cal/EPA and the Office of Permit Assistance, the State should assist local governments with environmental information systems and technical assistance in meeting requirements.

13. Agricultural Protection. There should be specific measures to safeguard the viability of the agricultural industry in California, while providing for efficiency in the modicum of conversion of agricultural to urban uses that necessarily will occur as the State continues to grow. The goal of State policy in this regard should be to prevent conversion patterns which unnecessarily compromise the entire agricultural industry. Basically, that means keeping

development contiguous to existing urban areas, or building new areas of development with a careful eye to the efficient delivery of services.

An earlier Council publication recommended specific measures including use of urban spheres of influence to phase growth in prime agricultural areas, coupled with minimum density requirements; and Williamson Act changes to focus on non-urban prime agricultural land, update land classifications and capitalization formulae, careful review of compatible uses, and provision of standard contract terms with restricted cancellation. Guidelines should specify consideration and treatment of agriculture and the cumulative impact of agricultural conversions in the Comprehensive Plans/Master EIRs of those counties with significant agricultural industries. All such measures should be considered in the context of an overall growth management program and approach to rural agricultural issues.

These measures do not necessarily prohibit non-contiguous development on prime agricultural land. Instead, they array a range of financial and market disincentives and contractual provisions, and planning guidelines to discourage it. This should not preclude consideration of "new towns" if they are carefully planned to ensure efficient delivery of services and prevent unreasonable congestion.

All these measures, with the exception of the disposition of State Williamson Act funds, should be presented as guidelines, with local government to have the final say in land use decisions. Finally, methods should be examined, such as transfer of development rights programs, to ensure that rural landowners are not disproportionately injured by new planning rules.

14. Implementation. The implementation measures described in this paper include conditioning access to new and existing State infrastructure funding, the availability of local financing vehicles, and water transfers, on meeting growth guidelines.

The Council would also like to see additional incentives. One possibility is reallocation of the growth in the local share of sales tax, which would also address the fiscalization of land use. Alternatives for reallocation of this growth increment would be (a) by population; (b) by number of housing units built. Another incentive option, when the State's fiscal health recovers, would be to take excess funds which the State receives, but is unable to spend due to the Gann Limit, and earmark those monies for infrastructure investment through distribution to local governments who are in compliance with State growth management goals and standards.

In general, the dismal fiscal realities of both State and local governments makes funding these recommendations — *i.e.*, implementing them — problematic. Even if it is within the context of existing resources or re-ordered priorities, however, and even if it is done sequentially, the Council strongly recommends beginning now. These are long-term approaches to California's future, not a quick fix, and they should be treated accordingly.

INTRODUCTION: THE NEED FOR GROWTH LEADERSHIP

In the last decade of the twentieth century, California stands at an historic juncture. The challenges of a rapidly changing society call for new approaches and new leadership. Californians are not fated simply to accept what may come, but can shape their own future.

The history of California is one of rapid change and migration. From the days when it was a remote outpost of empire, this thousand-mile stretch on the edge of the continent has captured the imagination. Wave after wave of settlers and immigrants, from Yankee Forty-Niners to Dust Bowl farmers, has crashed along this shore in search of a better life.

No less profound is the population growth and demographic change of more recent times. From ten million people in 1950, the population of the State has tripled in the space of barely two generations. Never has any society seen growth as rapid and sustained, and more recently as diverse. Indeed, it is a tribute to California that it has absorbed the numbers it has in so relatively short a period without greater disruption.

"Californians are not fated to accept what may come, but can shape their own future."

There is no sign that this growth will stop. California is growing at the rate of a Pasadena or a Santa Rosa every two months. Projections show over 36 million Californians by the year 2000, now just eight years away, and more beyond.

More factors are at work than the growth in mere numbers. Three demographic phenomena have occurred simultaneously in the California of the late twentieth century: growth in absolute numbers; changes in distribution and development patterns within the State as growth heads inland; and demographic shifts of age, race, and productive capability within the population. The numbers of both the very young and very old are increasing sharply, at the same time that many of the most productive members of society, those in the 30-44 age group, are leaving the State. These demographics must be a matter of grave concern to all California policymakers.

At the same time, we are becoming a multi-ethnic society. The greater part of California's growth is now Hispanic and Asian, a marked shift from the past. These changing demographics carry both challenges and opportunities. On the one hand, it offers us the chance to construct a multi-racial society that works. In the 21st century, a rich and diverse culture can be a competitive advantage. On the other hand, it poses risks of social polarization and geographic segregation that will not go away if we ignore them. Both the risks and the opportunities must be seized if this State is to prosper.

There is also rapid change in the economy, and increasing strain on traditional government structures. Defense cutbacks and base closures have combined with recession and structural change to severely impact the State's economy. In a free-trading world, and under the combined assault of broken workers compensation and civil justice systems, high taxes and operating costs, and permitting and regulatory overkill, productive businesses and jobs are going elsewhere. Traditional government structures of State bodies, cities, counties, special districts, regional bodies, and joint powers authorities work increasingly less well and place

increasingly more cumulative burdens on businesses and citizens alike, and on local government. Any approach to growth in California must focus, therefore, both on rebuilding our economy and on streamlining government. It must also focus on preserving and improving the quality of life in our state. Growth strategies should not be an academic exercise in planning. They should focus on the question most likely to be relevant to most Californians: how can we make California a place I and my family want to live.

The California of 1992 is thus radically different than anything we have faced in the past. It is more crowded, more diverse, more troubled and yet potentially more promising. Its economy and government structures are undergoing rapid transition and stress. Paradoxically, this is nothing new. This State has always defined change. The California of the 1950s and 1960s is gone, just as surely as the California of 1849 and the Gold Rush. We must view change as an opportunity, not a threat. The California of tomorrow will be different, but different will mean worse only if we do nothing.

"We must view change as an opportunity, not a threat. The California of tomorrow will be different, but different will mean worse only if we do nothing."

Many of the participants in the public growth management debate have urged measures to moderate this population growth. They make the point that rapid population growth is at the base of all growth management problems, and they reject an approach that seeks simply to accommodate that growth. And objectively, the demographics of our population clearly impact budgets, fiscal resources, our housing mix, and a host of other planning determinants. The State can grow at a measured and orderly pace for a long time, but it does not have an unlimited supply of money or resources.

However, population issues are also intensely divisive, and rightly or wrongly raise fears of elitism and inappropriate government intrusion. Moreover, there are sharp legal and practical limits on what State government can do to limit population. Funding for family planning has been increased, but this area remains one fundamentally of personal choice. Immigration law and policy are federal, not State (although the State should be compensated for the impact of those policies, which has not been the case). Movement from other states is protected by the U.S. Constitution, although steps should be taken to prevent California from becoming a welfare "magnet."

Direct population measures, even if they were effective and legal, are outside the scope of this report and would detract from it. The Council does note, however, that California has long benefited from the diversity and energy of its immigrants. Moreover, much of our present growth is driven by social and economic factors largely beyond the control of State or even national governments.

The Growth Management Council also does not subscribe to the view, expressed as opposition to "growth-inducing" improvements, that we must make life in California so miserable that no one will want to come here. Such an attitude is an abdication both of the responsibilities of leadership and of concern for the larger community. As long as California is a good place to live, and continues to generate both personal and economic opportunities, people will want to come here. Failure to deal with them will likely result in the same population growth, only more poorly housed and ill-educated, and with a far lower quality of life for all.

Our present governmental structures and our political leadership to date have yet to address and deal with these challenges of growth. We have ignored reality, played beggar-thy-neighbor politics, and generally hoped that growth problems would go away, or at least go next door. However, no amount of wishful thinking will change the fact that as long as California generates dreams and opportunities, people will come here and the State will grow.

Fundamental to successful growth in California, therefore, is an understanding and an acceptance that things will change. California has always been a dynamic and adaptive society. Today as well, we should face forward to the future.

The structures and approaches of the past, accordingly, must change as well. Issues are increasingly outgrowing traditional government structures. Local control and home rule are largely irrelevant to air pollution and traffic spilling over city lines, or to the impacts of housing and development decisions made in neighboring jurisdictions. Single-subject State and regional bodies are running into each other as they find that everything is connected to everything else. Just as the world has grown smaller, so too has the State. It is time to overhaul government, and produce leaner, streamlined, more efficient structures.

"Growth should not be seen merely as a series of problems to be solved, but as an opportunity to lay the basis and build a framework for a new California."

Growth should not be seen merely as a series of problems to be solved, but as an opportunity to lay the basis and build a framework for a new California, one that recognizes both the reality and the promise of change. Quality of life is not determined by mere numbers alone, but how we deal with those numbers.

Growth has both costs and benefits. It is how we shape growth that will determine whether its benefits are fully realized and its costs contained. The answer is neither uncontrolled growth, nor no growth at all, but strategic growth in a way that maximizes its benefits and minimizes its impacts. We can choose. Growth affords Californians the opportunity to plan more intelligently for the future of our State.

This report thus takes a more expansive view of "growth management" than is traditional. An effective growth management strategy must treat our problems comprehensively and not simply as a matter of land use. This report views growth management as a broad framework — economic, fiscal, social, and environmental — for guiding California's future development. Because this is a fundamentally different view than many others, this report uses the more accurate term "strategic growth." To view California's growth-related needs in any other context misses an enormous opportunity and, more important, runs the risk of failing to address the real problems that confront this state. It would continue the piecemeal, ad hoc approach that created or compounded many of those problems in the first place.

The quality of life in California has suffered not merely because of growth, but because we have failed to deal with growth. Successful growth means acceptance by every community, every company, every individual, that each has a part to play. It requires a commitment not just to personal or corporate quality of life, but to community quality of life, and a community that extends beyond immediate neighborhood or city and county lines. We must begin to define home more broadly. It is all of California. It is all Californians.

There are competing visions of our State's future. One vision is a California sunk into torpor and bowed down under the weight of its problems. Its environment is degraded, its industries and much of its middle class have fled to other states, and its people are little more than a collection of angry tribes that happen to inhabit the same piece of real estate. This is the California we will get if we do nothing.

The other vision is a better California. It has made the hard choices, set its priorities, guided its investments, and weathered the political storms. It is a California that cares about the future, and has one. It is a California that works.

It is the California for which we must all strive.

The Growth Management Council recommends more than mere management; it calls for growth **leadership.** It calls for **strategic** growth. The recommendations it lays out in this report are intended to help set the framework and a blueprint to take this State confidently into the future.

THE WORK OF THE GROWTH MANAGEMENT COUNCIL

The Growth Management Council was created by Governor Wilson's second Executive Order (number W-2-91, dated January 22, 1991; a copy is attached to this report) shortly after he assumed office. The Council is composed of the Agency Secretaries and Department Directors whose responsibilities — business, transportation, and housing, health and welfare, finance, environmental protection, and resources — are critical to how the State will manage growth.

The Governor charged the Council to formulate recommendations to him built upon ten principles set forth in the Executive Order, and upon the Governor's belief that some level of growth is inevitable but that California can shape and not merely suffer that growth.

The Council began its study of growth in California, and analysis of both its challenges and opportunities, almost immediately. While staff reviewed existing growth management literature and current State planning efforts, Council members met together and separately with dozens of interested groups and individuals, from business, labor, local government, environmental, and other public and private organizations across the political and jurisdictional spectrum. A partial list of some of these contacts is attached to this report. Meetings were also held with legislators and their staffs to review, understand, and solicit their views and understand current legislative proposals in the growth management area.

In addition, beginning in July of 1991, the Council held more than a dozen day-long public hearings throughout the State. More than 500 witnesses appeared, including local government, business, environmental groups, advocates for housing, agriculture, and other interests. Almost all shared common concerns. Many witnesses felt that the State, as its first order of business, should coordinate its own planning and priorities, and provide local government with clear guidelines and goals. Second, there was strong concern to maintain and build the economic vitality of the State and to create additional employment. Other issues were also prominent: maintenance of home rule and accountability from those who govern; a desire to protect the environment; a desire to mitigate traffic congestion and to build a transportation system that works; and a desire to make housing more affordable and to achieve a better jobs-housing balance.

In addition to the hearings, the Office of Planning and Research, which served as staff to the Council, distributed a survey on growth management issues to local government, and a questionnaire to leaders and policy makers throughout California, including all members of the Legislature. Over 450 of 2,500 questionnaires mailed were completed and returned. A similar high response rate was received to the survey.

Analyses of both the hearings, and of the survey and questionnaire results, are among a series of interim publications on growth management issues which have been released jointly by the Council and OPR:

- *Local and Regional Perspectives on Growth Management*
- *1991 Local Government Growth Management Survey*
- *Other States' Growth Management Experiences*
- *Models of Regional Government*

- *Analysis of the 1990 Census in California*
- *Growth Management and Public Opinion*
- *Urban Growth Boundaries*
- *Planning and Growth Management*
- *Conflict Resolution Mechanisms in Growth Management*
- *Growth Management Legislative Proposals*
- *Growth Management and Environmental Quality*
- *The Regions of California*
- *Statewide and Regional Transportation Planning/Congestion Management Plans and Growth Management*
- *Urban Growth Management Through Transportation Corridors and Transportation Financing Districts*
- *Agricultural Conservation and Growth Management*
- *Statewide Plan Coordination in California*

In addition, it is anticipated that there may be further reports on other related issues in the near future, including the following:

- *Growth Management and Air Quality*
- *Growth and Long-Range Water Policy*
- *California's Future Economy*
- *California's Rural Development*
- *Energy and Growth Management*
- *Land Use and Local Finance*
- *Housing: A Critical Component of Growth Management*

As this process has progressed, several key findings emerged which guided the Council's deliberations, and which the Governor stressed in a speech in late 1991 to the California Chapter of the American Planning Association, the first California Governor ever to address that group:

First, the State must promote a strong economy as part of any growth program. Without economic vitality, there will be no growth to manage, nor will there be revenues to protect our resources and provide the services necessary to sustain a high quality of life. Concern for economic growth does not require sacrificing our environmental values, but to the contrary implies strengthening environmental protection as a key part of a high quality, sustainable economy.

Second, all levels of government should focus on streamlining and coordinating the substantial regional authorities that already exist, rather than creating new layers of general government. We need better government, not more government.

Third, at the State level, a growth program should serve as a vehicle for integrated State planning generally. OPR's inventory and analysis found over 40 existing State plans of one sort or another, few of which are coordinated with each other.

Fourth, meeting growth guidelines requires maximum local flexibility. Most land use decisions should be decided at the local level, but some issues and responsibilities cross political boundaries and afford an opportunity for regional cooperation. Others are most appropriately State issues. Part of any growth program is to decide which level of government — or whether any level of government — does which task best. Land use decisions are traditionally local, and should remain so to the extent possible, but realistically some check on unfettered local discretion is both necessary and reasonable in some areas. However, the State must not micromanage, and it should be sufficiently specific in setting any Statewide standards so that compliance can be fairly determined based on results. The State should also seek to reward, not penalize, in encouraging compliance with growth guidelines.

"Without economic vitality, there will be no growth to manage, nor will there be revenues to protect our resources and provide the services necessary to sustain a high quality of life."

Fifth, a growth program must produce a simplified and expedited development review and permitting process that will provide both certainty, and real and fair environmental protection. Our growth process must separate out environmental protection from local opposition to development; while often overlapping, the two are not always the same issue.

Finally, but certainly not least in this time of tight budgets and fiscal constraints, there is little alternative but to **develop a growth plan largely within the context of existing funding.** The one exception is infrastructure funding, which the Council has recommended be significantly increased or expanded through a redirection of State spending priorities. The question of where this increased funding comes from, or from whom it is redirected, must be decided.

The economic and fiscal woes of the State saw all growth management proposals take a back seat in 1992. The original deadline for the Council's report came and went; other, more immediately urgent matters such as the State budget crisis and the economic downturn demanded attention. However, with the passage of time, the potential role of a growth program in spurring economic activity as well as protecting the quality of life has become more clear. Even during this most recent year of economic downturn, California's population continues to grow, by nearly 700,000. If we are to build a solid future for all Californians, we must use growth as a strategic tool to promote sustainable prosperity and careful development that maintains California's quality of life. Indeed, the Governor's original executive order notes the positive role that growth management can play in contributing to a sound economy and maintaining a favorable business climate. Other studies have suggested that better planning, far from discouraging economic development, may support it by encouraging businesses attracted by the quality of life, and by providing a stable and certain regulatory environment that attracts long-term, capital-intensive investments.

Throughout its work, the Growth Management Council was fully cognizant that those who have taken earlier initiatives must be partners in formulating a strategic growth plan. In the same way, these issues will last beyond this Legislature and this Administration, for planning for the future is a continuously moving target. What is most important is that we build a sound framework now for future generations of Californians.

THE PARAMETERS OF A STRATEGIC GROWTH PROGRAM

The Need

California needs a strategic growth program that strikes a balance, and recognizes and makes trade-offs, between the many diverse and sometimes competing considerations that drive public policy. It is State government's job to set both structures and policies that will allow that to happen. At a minimum, the Growth Management Council believes that these should include:

- **Building on the themes established in the Wilson Administration:** preventive government aimed at stopping problems before they happen; realignment of government functions to the appropriate level for the people served, and then ensuring that adequate revenues exist so that services can be delivered at that level for both maximum efficiency and accountability; improvement of the business climate through improved education, efficient infrastructure, regulatory streamlining and reform; and heightened stewardship of California's resources and environment.
- **Using growth as a strategic tool to revitalize the State's economy and create jobs.** California continues to grow. We should direct and shape that growth to maximize its contribution to the economy and workforce, provide for efficient delivery of services, and minimize costly impacts on resources and the environment.
- **Streamlining government.** The proliferation of single-subject regional agencies and overlapping authorities is not working well. We have created too much government that is often at odds with itself, and that creates a bureaucratic nightmare for citizens trying to find accountability, businesses trying to comply with regulation, and local governments trying to get clear direction on State policy. Strategic growth must include less, more efficient government.
- **Fiscal prudence and efficient government.** Like anyone else, State government operates within fiscal restraints. We must provide expectations that are reasonable. There is not enough money to do everything we want. Spending priorities should be set on an overall, integrated basis.
- **High in those priorities should be new funding for infrastructure as a necessary, long-term investment in the economic health of our State and in the tax base that pays for other services.** Ways must be found to leverage State investments, allocate limited funds, and plan for long-term capital facilities in a coherent and ordered manner. Existing infrastructure must be fully utilized where it is economic to do so.
- **Equally high in priorities should be education,** which should be viewed as human infrastructure. In a free-trading world, when anyone can buy raw materials, when transportation costs are low, and when labor and capital flow across state and national lines, more than any single factor it is a skilled and educated work force that will add value and make an economy competitive.
- **A reorientation to productivity, competition, individual responsibility, and accountability to California's taxpayers,** including business and the middle class. We need to

structure our policies, including tax policies, to harness incentives and market forces where possible to achieve environmental goals and more beneficial land use patterns, and to show tax-paying Californians that they are getting something for their tax dollars.

- **Integration and coordination of the State's own plans and policies.** The State must put its own house in order before it tells others what to do. It must be consistent in its planning, and must provide clear and consistent goals and guidelines to local government. The Governor should provide strong policy leadership.

- **A redefinition of the relationships between State and local governments.** Too many of the problems of growth have outstripped the ability of local governments to address them. There is no across-the-board slogan that will work, whether "regional government" or "home rule." Indeed, in many instances, growth management will empower local governments to deal with problems that have now outstripped their reach. There is no "home rule" *now* over things such as air pollution and traffic congestion. Instead, growth management requires careful consideration of which level of government does what, best. **Local governments must be partners with the State, and with each other.**

"Any growth strategy must focus on making California more competitive with other states not only in the ease of doing business, but also in the quality of life and the quality of the environment."

- **Greater sensitivity to California's growing diversity,** and the corresponding danger of an emerging two-tiered society. Growth management has the danger within it of becoming a struggle between the haves and have-nots, the white and the non-white, those long here and those more recently arrived. If this happens, we will fail both morally and substantively. We must recognize and consider the socioeconomic impacts of any growth policies. Any vision of the California of the future must address its changing demographics and the quality of life for all.

- **We must strive for both a strong economy and a clean environment.** The Council believes these goals belong together; they are not mutually exclusive. The success of any growth strategy will be determined by its ability to meet economic and environmental objectives without sacrificing either.

California's environment is an issue of enormous economic importance. Businesses are leaving this state (or not expanding or moving here) not only because of a maze of regulations and the lack of affordable housing, but also because of traffic strangulation, poor air quality, and a host of other environmental problems. Continued environmental vigilance is, in fact, a long-term economic imperative. Many key industries, for example, such as high-tech, financial services, and tourism, are critically dependent upon a clean environment and high quality of life for employees and visitors alike. Resource-based primary industries such as agriculture and timber are equally dependent on conservation.

Any growth strategy must focus on making California more competitive with other states not only in the ease of doing business, but also in the quality of life and the quality of the environment. Improving the quality of life must ultimately be the goal of any government. But in addition, it is in quality of life that California should compete.

We start with tremendous advantages in national and global markets, core strengths that remain unshaken by the current economic downturn: physical beauty and recreation, good

weather, a vast internal market, a skilled workforce and technology base, location on the Pacific Rim, a diverse economy and culture, and substantial resources. We must build on these with a healthy environment, a stable and secure water supply, transportation mobility and affordable housing, and resource protection. Above all, we need both State and local governments, and the public and private sectors, to be visibly committed to making California a better place to live and do business. We must change the perception that California is hostile to business, has a deteriorating environment, or is unable to deal with its growth. It is none of those things.

Without a strong economy and job growth, the quality of life in California will suffer; we will not have the resources to pay for all the other things we want. It is no accident that the places in the world where the environment is the worst, are also those where the economy is the worst. Without adequate and efficient environmental and resource protection, businesses will not want to locate here. We must focus on making California's economy more competitive and flexible; and on making environmental protection more cost-effective and real.

"The failure of growth in California today is the young worker with a family who must drive two hours to work in order to find affordable housing."

- **We need a new commitment to effective housing, transportation, and land use patterns.** The failure of growth in California today is the young worker with a family who must drive (slowly) two hours to work in order to find affordable housing, in the process adding to congestion, air pollution, and loss of open space. No employer is likely to be willing to put up for long with a workforce so frustrated and drained, and no economy can tolerate the loss of productivity nor society the family disruption. Eventually that employee will leave work one day and continue driving into the next state.

If the State is to preserve its economy, protect open space and the environment, and make a better life for its citizens, it must make the housing market work better to respond to housing needs, rewarding localities which remove regulatory barriers. Among other things, fiscal reform must moderate the competition between jurisdictions for tax revenue, a competition that can harm housing and distort land use patterns through land use decisions that focus on maximizing tax revenue rather than sound planning.

The issue of housing is the most politically contentious in the growth management puzzle, but it is also the piece without which no others will fit. Higher densities, market-driven, inevitably must be some part of this piece. California cannot support a population growing past thirty million people based on existing housing and transportation patterns without unacceptable economic, social, and environmental costs. If the State wishes to preserve mobility, open space and a viable agricultural industry, clean air and environmental quality, and an economy that works, it cannot continue to support traditional, low-density land use patterns based on large, single family detached dwellings, nor a transportation system based overwhelmingly on single-occupancy vehicle usage. It must promote alternatives.

This is a conclusion that follows from simple arithmetic. Such housing and transportation patterns use too much land, are too spread out, require too much infrastructure, create too great traffic congestion, have adverse air impacts and other environmental costs, and simply cost too much. The State cannot afford it, as a financial matter. Most people could not afford

it, either, if they bore the full costs of these housing and transportation patterns. What may have been possible with ten or even twenty million people is simply not sustainable for a population of twice that much in the same space.

These existing land use and transportation patterns, however, are the products of strong consumer preference and localized decisions. The response must be (1) that the State act, first, to assert the Statewide interest where one legitimately exists, and, second, to provide mechanisms to temper local decisions when the consequences fall on those outside the city or county boundaries; (2) to fully cost those consumer preferences, so that individuals still have choice, but not at others' expense. In both cases, this is a matter of assigning responsibility for decision-making. It is also a matter of potentially considerable political and technical difficulty.

Outlines of Approach

In summary, the Council's recommended approach is to use existing institutional structures (cities and counties, COGs) as much as possible; to focus on integrating and rationalizing the regional authorities that already exist rather than creating a new regional government of general powers; to make the overall program as self-executing and as certain as possible; and to minimize the overt intrusion of the State and regional bodies into local affairs. At the same time, these recommendations would put the State's own planning and policy house into order, and provide clear guidelines and policies for local governments.

With these considerations in mind, the Growth Management Council's recommendations would do the following:

- Effectively re-create the general plan process at the State level. There should be an Integrated State Plan coordinating various existing and new plans, including housing, transportation, resource and environmental protection, energy, water, capital improvements. This does not mean central planning; to paraphrase Margaret Thatcher, we have not rolled back the frontiers of the state in Moscow only to see them reimposed in Sacramento. What it *does* mean is streamlining and integrating in one place the disparate and substantially uncoordinated planning that already takes place at the State level.
- Rely in large part on guidelines and incentives. Whether and how regions and localities meet those guidelines, which should be cast largely as flexible performance standards, should be up to them. This allows for more local decision-making, flexibility, buy-in and implementation, and regional differences and preferences than if the State were to impose solutions or a single model from Sacramento. Local residents ultimately are best placed to make local land use decisions. The State should help if those decisions further State goals.
- Overhaul local general plan law and the California Environmental Quality Act (CEQA) to provide for greater certainty both of protection and development, and greater integration of environmental assessment with overall planning. Each jurisdiction should prepare a Local Comprehensive Plan/Master Environmental Impact Report (EIR). Basic land use decisions and environmental assessment should be moved toward the plan/cumulative impacts level, and away from fragmented and isolated project-by-project review.
- Redefine and improve new Councils of Governments (COGs), giving them additional authority to plan and coordinate existing regional activities, with some limited consolida-

tion of existing regional bodies. However, there should be no new regional government with taxing, general land use, or substantial operational powers. In addition, the trade-off for strengthening COGs must be re-examining their procedures, structures, and boundaries to ensure balance and responsiveness, particularly in multi-county areas. New COGs would continue to be "bottoms up" organizations, but should now also answer to the State in specific areas.

- Condition or prioritize State infrastructure funding, future use of local financing vehicles such as Mello-Roos districts and developer fees, and water transfers on meeting State growth guidelines, as set forth in this report.
- Provide specific initiatives in different key areas:
  - Support State, local, and regional infrastructure in accordance with voluntary State growth guidelines through a strengthened California Housing and Finance Authority (CHFA), renamed the California Infrastructure Financing Authority (CIFA) and acting as a State infrastructure bank with significant bonded capital.
  - Unify State transportation planning, and strengthen the congestion management planning process at the regional level.
  - Simplify the land use permitting process, ultimately toward a single-issue permit or consolidated permit process focussed at the local level through provision of integrated State permitting criteria and technical assistance to traditional local permitting authorities — cities and counties. Alternatively, a consolidated State permit process can coordinate closely with and funnel into a comprehensive local permit process to achieve the same end. Other alternatives should also be explored to reduce regulatory and permitting burdens and redundancies.
  - Strengthen accountability of local air districts, and integrate indirect source considerations into the Integrated State Planning process.
  - Address fiscal zoning and affordable housing through review of harmful zoning practices and other regulatory barriers to affordable housing, and by streamlining and strengthening State housing laws. Various fiscal measures are also considered, such as reallocation of the growth in local share of sales tax.
  - Provide for inventory and classification of high resource-value lands of Statewide significance and added protection for prime agricultural lands.

Collectively, these measures are directed toward forging a substantially more cooperative and integrated structure between all levels of government, and to provide a more efficient and directed focus on growth and development issues.

The Question of Regional Government

This approach is more sensitive to local government, and less expansive toward regional government, than various growth management proposals that have been made. It recognizes a stronger State role and weaker regional role than these proposals.

The Council does not agree with the proposals that call for creation of a new layer of regional government in California of general powers. This is unlikely to be a solution that works, for a number of reasons.

First, **California already has enough government.** What we need is better coordinated and more efficient government with what we have. We should not create new bodies for the sake of change, without regard to whether they will result in real improvements.

Second, **California already has significant regional government.** Local and regional air districts have jurisdiction over regional air quality. Regional water quality control boards treat water quality. Regional Transportation Planning Agencies and Metropolitan Planning Organizations deal with transportation planning. Councils of Governments (some of whom are also RTPAs and MPOs) serve as regional planning bodies. Counties themselves, and county-level agencies, perform many regional and subregional functions, including solid waste and low-level hazardous waste planning, congestion management planning, mental and public health programs, mass transit, and air quality if the Board of Supervisors sits as the local air district.

California's growth management process should find ways to help these existing regional bodies work together better, to integrate their planning and their decisions, and to rationalize their efforts. Some modest degree of consolidation may be in order, and the Council's recommendations reflect this.

Third, creation of powerful regional governments of general powers would substantially diminish local control. California has a strong tradition of home rule that, while not an absolute, should not be eroded unnecessarily. A genuine regional government would also raise serious issues of accountability unless it were directly elected. Yet the last thing California needs is more politics. A better approach is to find ways and mechanisms to help local governments work together, to enhance their ability to address those regional issues now largely outside their control.

Fourth, creation of powerful regional governments necessarily would diminish the role of the State and create *de facto,* if not *de jure,* substates in different areas of California. No responsible State government can stand by and see this happen, much less promote it. Each region of the State should be able to determine its own destiny, but within State standards that recognize we are all part of a larger California community, north and south, coastal and inland, rural and urban.

In sum, a new approach to growth need not be the same as regional government. The Council's recommendations focus on the former.

Implementation

The comprehensive analysis presented by the Growth Management Council envisions a restructuring of the decision-making processes in California to strive for livability and prosperity for all Californians in the 21st century. Both the issues and the recommendations identified in this report are long-term. It is not anticipated that they will all be implemented immediately, nor that if they were, they would show immediate results.

The fiscal situation in California today requires that hard choices be made between planning for tomorrow and meeting the real needs of today. The Council recognizes the merit of both. The State has an obligation to devote some resources to investing in the future, which of necessity means redirecting some of those resources away from present needs. The State also must provide a clear plan itself before requiring local governments or others to make changes. Most likely a comprehensive growth program must be phased in over a number of years as new opportunities and resources become available.

RECOMMENDATIONS

Conventional growth management includes balancing conservation and development, effective management of resources, and integrated planning. These basic premises remain essential foundations of the Growth Management Council's recommendations. In addition, however, the Council has focussed on additional aims that are particularly relevant in California today: (1) **rebuilding California and promoting economic growth,** through new focus on infrastructure and an improved development and permitting process; and (2) **streamlining government,** through rationalizing existing regional structures, and reforming State and local planning processes. Obviously these two goals are mutually supportive.

INFRASTRUCTURE

The Growth Management Council uniformly believes the State must direct more of its attention and investment to infrastructure. Infrastructure is the key to a strong economy, environment, and quality of life. A strong economy generates jobs and taxes, to pay for all the other things society wants. Substantial new infrastructure funding is needed as a long-term investment in the State. However, infrastructure should be funded from existing resources and bonded indebtedness, rather than from additional taxes, as further taxes will slow rather than stimulate the economy. Substantial additional State bonds will also adversely impact California's borrowing costs and rating, so that new borrowing should be carefully evaluated for cost-benefit. All of this implies that infrastructure should be funded, at least for the near term, in part through a re-ordering of present State priorities and redirection of existing resources.

The Growth Management Council's recommendations in the infrastructure area consist of these elements:

(l) Constitutional amendments;

(2) State assistance for local and regional infrastructure, including expansion of CHFA to act as a State infrastructure bank;

(3) State budget redirection and capital facilities planning;

(4) School construction legislation; and

(5) Infrastructure review consistent with growth guidelines.

1. ACA 6. The Council urges continued support for ACA 6 (O'Connell) on the ballot, providing for reduction to a simple majority of the local electorate of the vote required for general obligation bonds for school facilities. In addition, reduction of the two-thirds majority for bonds for other facilities that might be thought essentially local, such as jails, parks, and open space, should be examined.

2. State Assistance for Local and Regional Infrastructure. State support for local and regional infrastructure is a necessary and strong signal of State policy to plan and build for the future. Although the State cannot generally be a banker to local government, it can act to reward jurisdictions that meet State growth guidelines (see below), and help support the market for local debt. The Council proposes empowering the existing California Housing

Finance Authority (CHFA), renamed simply the California Infrastructure Finance Authority (CIFA), to act effectively as a State infrastructure bank, supported by State bonds, to provide 50-50 matching grants to local government for infrastructure improvements that are consistent with growth guidelines. Among other things, the CIFA should also publicize availability of pledging local share of Vehicle License Fees and offer other tools (pooling, interest rate buy-downs) as ways to lower local borrowing costs. An interagency working group has outlined a detailed proposal and alternative funding sources, which is attached to this report as an appendix.

"Infrastructure is the key to a strong economy, environment, and quality of life. A strong economy generates jobs and taxes, to pay for all the other things society wants."

3. Capital Improvements Plan/State Infrastructure. The Department of Finance and OPR should develop an integrated, long-range capital improvements plan for State infrastructure, such as State highways, water facilities, rail, and so on. An interagency process should result in recommendations to set priorities for infrastructure investments. To the extent possible, priorities should be based on categories rather than specific projects, in order to retain flexibility, and should be consistent with and part of the Integrated State Plan (see below). The plan should identify possible funding sources.

There should be some ultimate redirection of budget priorities toward infrastructure, for three reasons: (a) the State will literally start falling apart under the weight of growth unless we begin seriously attending to infrastructure needs; (b) there needs to be a visible signal to both business and individual taxpayers of a new direction and priorities being established in California government; (c) construction provides jobs.

4. School Construction. School facilities in particular present an imposing need because of the large numbers of children who are already born and who will be entering the system during this decade. The Growth Management Council supports the following measures suggested by the Office of Child Development and Education: a State "safety net" program to provide portables to local school districts as last resort; school financing should otherwise be predominantly local by majority vote (ACA 6; see above); streamlining the school construction application and plan check process; greater flexibility in meeting Building Codes. Some means also need to be found for financing permanent school facilities, beyond a "safety net," for those districts that simply lack local bonding capacity notwithstanding local support. The possibility of bonds for this purpose should be evaluated by the Department of Finance in the context of total acceptable State bonding capacity and other infrastructure needs. School districts and facilities needs should be part of the comprehensive plan process, and meet growth guidelines for any State financing. Measures should be developed to integrate school construction financing with local infrastructure generally.

5. Infrastructure Review. All State infrastructure funds or capital projects and mechanisms, whether direct funds or loans, should be used in accord with voluntary State growth guidelines, discussed below. In addition, local and government entities should be permitted to utilize specific State-sanctioned infrastructure financing vehicles, such as developer fees, Mello-Roos districts, and Lighting and Landscaping Act districts (although not simple majority local-purpose bonds for schools proposed under ACA 6), only if their Local

Comprehensive Plans have first been certified as materially consistent with those guidelines. Finally, any additional water transfers should be similarly conditioned.

State infrastructure investments should be used to support cost-efficient growth and development where it makes the most sense. Strategic growth should direct and encourage growth in areas where it is environmentally and economically desirable. Preferred development areas could be designed in areas served by new State-funded infrastructure. For instance, when the State makes an investment in a new transit line, the local government(s) served should be required to designate sufficient and appropriate land for development to support and be served by the infrastructure (*e.g.*, high density housing or high density commercial development adjacent to the transit terminal). Caltrans, in consultation with the California Transportation Commission, is working on such a demonstration project.

As another example, State infrastructure investments can be tied to reductions in developer fees that add to the cost of housing. If State assistance is being given for new roads, sewer and water systems, or schools, the local jurisdiction should be limited in the level of fees it can place on the residential development served by that infrastructure.

The Council would also like to see additional incentives for strategic growth. One possibility is reallocation of the growth in the local share of sales tax, which would also address the fiscalization of land use. This is further discussed below in the "housing" section.

BUSINESS CLIMATE

Strategic growth must have as a key focus the enhancement of the business climate in California, to create jobs and sustained economic prosperity, and to pay for environmental and resource protection as well as necessary social services. To complement a strong growth commitment to environmental protection and conservation, the Governor's growth initiative should achieve two particular economic growth objectives:

- Reduce regulatory constraints on the market and avoid the imposition of new regulations on development projects; avoid the creation of new regulatory bodies and additional layers of government at the regional level. Overall, a growth program should result in less government and less regulation.
- Create incentives for local government to pursue plans and actions which support housing development and economic growth consistent with State environmental goals.

Many of the recommendations elsewhere in this report will materially improve the business climate in California: moderation of the jobs-housing imbalance through encouragement of additional housing; rationalization of the planning and permitting processes and correspondingly greater certainty both of environmental protection and development; and State support for infrastructure.

The recommendations in this report should be seen as complementary to those of the Council on Competitiveness, and the Assembly Democrats Economic Prosperity Team (ADEPT) report. The Growth Management Council is pleased to have worked with the Competitiveness Council and played a key role in critical areas of its report, particularly regarding the land use process and permit streamlining.

In addition, the Growth Management Council makes two other specific proposals in this area, as follows:

1. Economic and Employment Development Plan. There should be development by the new Trade and Commerce Agency, the Employment Development Department, and other interested departments, of economic and employment development components to the Integrated State Plan. These are intended not as "industrial policy," but as strategic measures generally to enhance California's business climate and employment opportunities.

2. Rural Development. Coordination efforts should continue between the Office of Planning and Research, the Resources Agency, and the new Trade and Commerce Agency, and drawing on available federal assistance, to direct and promote growth to depressed, resource-dependent areas of the State that want and welcome it. It is important to any growth strategy that it not be restricted to urban areas or have solely an urban flavor. The issue in many areas of the State is not too much growth, but too little. Strategic growth should assist rural areas of the State who want balanced economic development to achieve it.

PLANNING

Central to the Growth Management Council's recommendations is a revision of planning law and processes to provide for a more integrated and coordinated approach to issues which have now escaped local political and subject matter boundaries and which no longer can be addressed in isolation. The elements are:

(1) **State planning legislation,** recreating at the State level the general plan process, through an Integrated State Plan coordinating and assembling in one place relevant State plans and regulations, and requiring consistency from local governments and State agencies.

(2) **Local and regional planning legislation** overhauling the general plan process at the local level, carefully redefining new Councils of Government (COGs) as regional planning agencies, and strengthening the State role of the Office of Planning and Research (OPR) in providing local planning assistance.

(3) **CEQA legislation** revising the California Environmental Quality Act to raise and improve review to the plan level, integrating environmental assessment with overall planning; assess cumulative impacts; create greater certainty for both development and environmental protection; and reduce unnecessary duplication, delay, and expense.

(4) **Permitting legislation** either leading towards an integrated Single-Issue Permit and consolidation of permitting administration at the local level; or alternatively, establish-

ing a consolidated State permit process to coordinate closely with a comprehensive local permit process. Other regulatory streamlining alternatives also should be explored, including State delegation agreements to local governments with sufficient staff resources, use of compliance plans in lieu of individual environmental permits, and designation of lead permit agencies to reduce overlap and duplication.

(5) Minor amendments to **redevelopment legislation,** curtailing fiscal abuse of redevelopment agencies.

1. Integration and Coordination of State Planning. A growth strategy should be a vehicle for comprehensive State planning generally. The Office of Planning and Research should coordinate, at five-year planning intervals, an Integrated State Plan. Essentially, the Integrated State Plan would be a General Plan for the State. It would have specific elements like existing general plan law — for example, a State Housing Plan, Resource Protection and Conservation Plan, unified Transportation Plan, all described elsewhere in these recommendations — integrated and woven together.

Rather than create new central planning, the Plan should integrate existing State standards including clean air; water quality; congestion management; "fair share" housing; solid and hazardous waste; local planning requirements; environmental review; and water conservation. Any statutory inconsistencies in these areas should be identified and brought to the Legislature.

In addition, the Plan should establish clear, voluntary Statewide growth guidelines, cast where appropriate as performance standards. These guidelines should be directed toward more sensible land use patterns, including orderly growth, provision of housing, environmental protection and resource conservation, cost-effective provision and use of necessary infrastructure, and closer integration of transportation, housing, air quality, and energy. They should include:

- resource identification conservation
- removing barriers to housing
- local permit streamlining
- consultation with neighbors
- infill/densification
- efficient infrastructure (funding and capacity)
- jobs/housing balance
- transit/housing integration

Guidelines should be directed to the plan as a whole, and should not lead to new burdensome and costly project-specific regulations. For example, "jobs/housing" guidelines should

encourage local designation of sufficient sites for residential development to support anticipated employment growth, rather than project-specific local ordinances to require office developers to build or pay for new housing.

The Council rejected the idea of arbitrary urban limit lines, or urban growth boundaries, for the reasons set forth in an earlier Council interim publication. Arbitrary urban limit lines will decrease the available supply of land for development and tend to drive up housing costs. Rather, local comprehensive plan guidelines should encourage development contiguous to existing urban areas through full utilization of infrastructure, and the State Resources Plan should identify environmentally sensitive lands. Limit lines should be permissive, if twinned with densification standards inside the boundaries in order to assure growth is not merely shunted to neighboring jurisdictions. The one exception may be prime agricultural areas, which are treated below.

Local governments should decide land use questions, but the State should use consistency with these guidelines to determine which local governments it will assist in meeting growth demands. The State is entitled to direct its limited means to where it thinks they will do the most good or be effective.

Ultimately a local government or State office should be able to refer to the Integrated State Plan and find or have identified all State material applicable to planning and land use.

In the lead-up to the Integrated State Plan, OPR should undertake a program of trend projection and analysis of alternative growth scenarios (*e.g.*, reduced growth, redirected growth, unmanaged growth), and assessment of the implementation measures necessary to achieve each alternative. For example, what will occur if current trends continue unabated? Millions more people are expected in California; where will growth occur? Wherever it goes, what requirements should be imposed to mitigate its impacts? This process of evaluating alternative scenarios should enhance any growth management plan, because it indicates the plan will not necessarily be based on predisposition toward any one approach. It allows computer evaluation (especially through geographical information systems, or GIS) of different scenarios from a number of perspectives — fiscal, economic, environmental — and permits the likely effects of different policies to be seen and appreciated.

Compliance with stated performance standards should be a condition or a competitive criterion for receiving future State infrastructure funding or loans, future use of certain financing vehicles such as Mello-Roos districts or developer fees, or additional water transfers. The discussion and proposals under the "Infrastructure" section, above, build on this notion.

In the same way as Finance undertakes a fiscal review of all plans and policies to insure consistency and integration, all State agency plans or policies that bear directly on the Integrated State Plan should go through a consistency review by OPR. Policies and planning should no longer be undertaken in a single-subject vacuum.

Development of statewide growth management and land use policies, and integration and consistency of planning by OPR are already authorized by, *inter alia*, Government Code Sections 65032, 65035, 65036, and 65040. The establishment of Statewide growth guidelines is already authorized by, *inter alia*, Government Code Sections 65030.1, 65031, and 65040(a).

With the possible exception of OPR, whose additional responsibilities under this recommendation obviously would be substantial, this coordinated State planning effort should be undertaken by State agencies and departments within the constraints of current funding,

through redirection of current spending if necessary. Presumably, however, much of this planning at the Department and Agency level is already being done.

2. Local Comprehensive Plan. The general plan should be reinforced and strengthened as the central tool for planning, and renamed the Local Comprehensive Plan. OPR should issue new general plan guidelines, renamed Comprehensive Plan guidelines, that would continue to have the force of law. Guidelines are already authorized under, *inter alia*, Government Code Section 65040.2.

"Nothing will contribute more to improvement in the planning and development process than the element of certainty."

Like the Integrated State Plan, the local plan guidelines should incorporate and integrate all State policies and statutes relevant to local planning, including housing, air, solid waste, CMP, agricultural conservation, historic preservation, open space and parks, water quality, and infrastructure. Each Local Comprehensive Plan should also include a long-term capital facilities (infrastructure) plan, including schools, and addressing financing as well. It should specify methods of coordinating planning with the jurisdiction's neighbors, and provide for notification to neighboring jurisdictions of the local comprehensive plan process, building on Government Code Section 65306. All facilities and bodies, including State facilities, school districts, and other special districts, should be considered in each jurisdiction's Comprehensive Plan. Special Districts should also be required to draw up plans.

The housing component of the local plan guidelines should be streamlined and improved over present housing element law. Housing issues and the housing element should be integrated into the overall local planning process. Local plan guidelines should include specific performance standards to guide local governments to adopt land use plans which accommodate and encourage needed housing growth. The local plan guidelines should incorporate the existing regional "fair share" housing needs allocation system and improve upon it by focusing on land use patterns and housing density goals rather than the current, vague income categories. This will require statutory changes in housing law. Housing should no longer be treated as a separate planning process, but any changes in the process should result in better implementation, accountability, and performance.

The Local Comprehensive Plan would be required to provide a much greater degree of certainty than now for both resource protection and development. The Plan would be required to specify where development will be permitted, on what terms, and according to what criteria. There should be a rebuttable presumption that each jurisdiction must provide sufficient development capacity to accommodate an anticipated "fair share" of projected growth (such a presumption could be rebutted, for example, by a showing that a particular jurisdiction had a disproportionately large area of resource-protected areas such as prime wetlands within its boundaries).

To the extent consistent with CEQA reform (see below), project-specific review should be directed to whether a proposed development meets the stated criteria. As a result, Local Comprehensive Plans would more closely resemble specific plans today, requiring a much higher degree of preparation but offset by lessened project-by-project review. The higher "up front" costs of such planning could be financed through revenue anticipation of project-specific application fees. Conditional use permits and development agreements, which contribute to a fragmented, ad hoc planning regime, should be discouraged except within narrowly prescribed guidelines, and vested rights should be better defined.

The basic thrust of this approach is to provide greater certainty for everyone — greater certainty of protection for environmentally sensitive areas, and greater certainty for builders. Nothing will contribute more to improvement in the planning and development process than the element of certainty. It is difficult to overstate the enormity of the cost of the level of uncertainty that currently prevails.

This approach has also been made in other states; there, the greater certainty for development has withered under the fire of local opposition, and growth management, accordingly, has become simply another tool to block development. To avoid this, all the related provisions in these recommendations (CEQA reform, permit consolidation, resource classification, planning reform) should be tied together as a package, with strong statements of legislative intent.

The Local Comprehensive Plan should be prepared or updated every five years, unlike current law which requires only that a general plan be "current" (and which is widely ignored). Amendments should be allowed only once a year, instead of four times a year as now permitted.

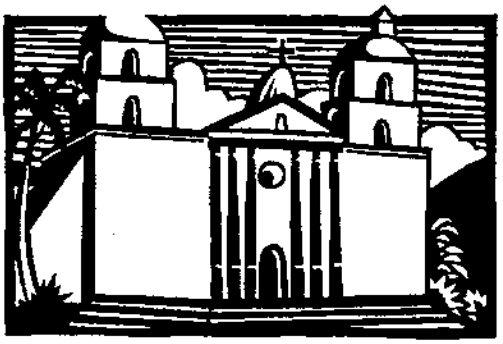
Each jurisdiction's Local Comprehensive Plan should be copied to the local Council of Government and to OPR, who should maintain regional and central files, respectively, with copies of all local plans. In order to qualify for State infrastructure funding, financing mechanisms, and water transfers, a certification method must be devised to determine whether a local jurisdiction's comprehensive plan meets both local plan and growth guidelines. Alternatives would be self-certification with State or regional audits; certification by the local COG or a county-level subdivision in multi-county areas; or by the State. Direct State review, although currently the practice with respect to local housing elements, is unlikely to be acceptable regarding local planning generally. Challenges to the adequacy of a plan should be by administrative procedure to the local COG and then OPR, initiated by a jurisdiction within the same COG, by any interested State department or agency, or by qualified third party under traditional common law standing. Subsequent court review after administrative remedies are exhausted should be subject to an abuse of discretion standard. The Council also recommends that land use disputes generally in the local planning process, including disputes under CEQA, be first subject to formal mediation, and then submitted to the same administrative and judicial review processes if necessary.

Jurisdictions whose Local Comprehensive Plans are not certified as consistent would be ineligible or lose priority for State infrastructure funds, any fiscal incentives, use of State-sanctioned financing mechanisms, or additional water transfers; see discussion below under "Infrastructure Review." Jurisdictions should have the opportunity to correct inconsistencies before these measures are applied.

These substantial additional planning responsibilities on the part of local government may constitute a significant State mandate, although local governments already face the legal requirement of maintaining a current general plan. Given the current cost range of preparing general plans, costs statewide could be as much as a hundred million dollars (average cost of the most recent General Plans has been approximately $200,000, although median cost may be much lower). Nevertheless, this kind of long-term planning is essential to California's future, and should be given priority in the context of current funding. Further, this should be

a non-recurring expense; subsequent revisions and updates should be much less. In the long run, such an effort should result in overall lower costs and better overall land use decisions.

Various different funding alternatives for this local planning effort have been suggested, including simply the continued use of current local funding used to support general plans. A 1991 report to the Southern California Association of Governments (SCAG) identified different funding streams that could support integrated regional planning if existing regional bodies were consolidated; possibly this concept could be extended to the local planning level. New funding alternatives — G.O. bonds (although debt financing of even long-term operational expenses would be a sharp departure), local permit fee anticipation fees, parcel taxes — have been proposed, but each has its disabilities.



Whatever the answer is, the Council agrees that the funding source for new comprehensive planning must be identified. However, the issue may be deferrable for a least one or two years, because a necessary first step in such sequential planning is the State's own integrated planning, discussed above. This first step should begin now; the Council's recommendations describe a long-term approach to building California's future, not a quick fix, and implementation may well necessarily be step by step.

Councils of Government/New COGs. The Growth Management Council recommends re-examining and reforming existing Councils of Governments (COGs) for an expanded regional planning and coordination role and limited consolidation of regional bodies. After hearings and process allowing for local notice and opportunity to be heard, the Office of Planning and Research should designate planning regions for the State. In many instances, these should correspond to the existing COG areas. Included in this should be a determination whether new COGs or other regional structures are needed in areas that do not currently have them. Local input and hearings should also examine suggested revisions to boundaries, voting structure, balance, or procedures. OPR should also designate sub-areas within the larger COGs for specified functions, to ease fears of dominance by larger counties. COGs and subregions should mutually determine an appropriate division of duties, failing which OPR should do so.

The Council recognizes the difficulty and charged nature of many of the issues involving COGs, particularly in large multi-county areas. It believes, however, that it is prudent to work through existing institutions and to carefully reform them to address those issues, rather than starting all over again. There is a substantial collective body of knowledge, expertise, and relationships in existing institutions that should not be lightly discarded.

State agencies should be encouraged to align regions and districts wherever possible with these new COG areas where it makes sense to do so in light of the purpose of the division, in order to effect regulatory efficiency and decrease fragmentation. When two regions or districts from a single department or agency are nevertheless within the boundaries of a single COG, coordinating the State response between regions or districts should become the responsibility of the State Agency.

New COGs should succeed to all existing COG duties, including particularly as Metropolitan Planning Organizations (MPOs) under federal transportation law and as "fair share" housing allocaters for the region. In addition, new COGs or county subdivisions should act

as a review and appeal body for the Comprehensive Plan/Master EIR process and disputes thereunder.

New COGs should undertake additional duties as well, many of which different COGs may already be exercising:

(a) regional CMPs;

(b) regional solid waste and low level hazardous waste (Tanner) planning;

(c) an improved process for regional "fair share" housing needs allocations, with greater local input into the determination of needs, and more cooperative approaches to meeting those needs, including creation of an effective market mechanism backed by incentives to trade allocations within a region, the net result of which must be more housing on the ground;

(d) creation of mechanisms to tie jobs growth to housing within a region or subregion;

(e) creation of a market mechanism to voluntarily site locally undesirable land uses (LULUs) such as landfills within a given region;

(f) creation of a regional mitigation banking scheme to provide greater flexibility in meeting environmental needs, by allowing development impacts in one area to be offset elsewhere;

(g) current RTPA duties in urban areas where COGs also exist, and to the extent consistent with federal law, present MPO duties;

(h) approval of any new Special Districts, and conduct of feasibility studies of consolidating existing ones;

(i) possible review and certification of local comprehensive plans to ensure consistency with State guidelines, with a right of appeal to OPR;

(j) preparation of regional reports to OPR detailing the aggregate performance of the region in meeting the State's growth guidelines; over time, these may become regional comprehensive plans, but they should reflect local plans within the region and not confer any independent authority;

(k) coordination of regional planning activity with State agencies and departments.

Consideration should also be given in future to consolidation of other regional functions, including in some instances some of the functions that may at present be performed by county LAFCOs and by Airport Land Use Commissions.

All of these additional duties are treated at greater length in an appendix to this paper.

New COGs should not have taxing authority, nor general land use or permitting authority, nor substantial operational duties, beyond those they may currently perform. They should make no land use decisions that cities and counties now make. To a large degree their powers will be as agents for the State on specific delegations subject to review. In short, they should not be regional government, nor a new layer of government of general powers. **Overall, the net, long-term result of this reorganization should be less government.**

Funding for new COGs should come from existing COG funding and that of other bodies or functions to whose duties they will accede.

OPR and other State Assistance. The Office of Planning and Research should substantially strengthen and increase its planning and technical assistance to local jurisdictions. Under

State law, OPR is the State agency responsible for developing State land use policies and assisting local agencies in their planning efforts. To assist local jurisdictions with their initially increased planning duties under these revisions, OPR should develop standard, accepted planning products that by statute would carry legal presumptions of legal validity, as is the case currently with general plan guidelines. OPR would work with the appropriate State agencies in the development of these products. Such products could also be developed on an area basis by new COGs.

The following is a list of such standardized planning products or documents to provide local agencies planning guidance, to encourage reliance on comprehensive plans, and to avoid excessive reliance on repetitive project-by-project analysis:

- Annual or biennial updates of CEQA Guidelines.
- Annual or biennial updates of Local Plan guidelines with emphasis on the importance of interjurisdictional compatibility by way of comment and coordination.
- Guidelines for merger of specific and community plans into the local Comprehensive Plan.
- Models for assessment of cumulative impacts consistent with CEQA Guidelines. (Alternatively, these could be based on methodologies set at the regional level, drawing from models used to prepare the relevant plans — *e.g.*, transportation models, air quality models, surface runoff models.)
- Models for "tiering" of CEQA documents and reliance on previous documents at both plan and project levels consistent with CEQA Guidelines (this is a method of streamlining CEQA allowed under present law but not presently utilized because of vague guidelines). Again, some of these could be set at the regional level, including use of standard impact methodologies and impact significance criteria, and standardized mitigation measures.
- Guidelines for performing traffic analysis which emphasizes air quality impacts and distinguishes among land use patterns and transportation alternatives, factoring in regional commuting patterns.
- Standardized GIS and other land use planning tools.
- Model Comprehensive Plans.
- Model Master EIRs.
- Model combined Comprehensive Plans/Master EIRs.
- Model "fair share" trading mechanisms.
- Model "LULU" siting mechanisms.

This basic planning effort on the part of the State should be given priority within the context of current funding.

In addition, planning-related technical assistance by other State bodies, such as HCD, Caltrans, Cal/EPA, and the Resources Agency, should be continued and strengthened, again through redirection of current spending priorities.

There should be development of uniform Geographical Information Systems (GIS) standards as a basic planning and land use tool, and maintenance of a Statewide GIS for land use planning. This is underway through the GIS Task Force under AB 429 (Farr).

3. CEQA Reform. The California Environmental Quality Act (CEQA) should be revised to provide more comprehensive, certain, and focussed environmental analysis and protection. CEQA was designed to ensure that environmental impacts are fully addressed in public decisions. However, through court decisions and follow-up legislation, and because of the lack of an effective growth strategy at the State level, in many instances CEQA has become a substitute for comprehensive local planning. Rather than making difficult trade-offs about growth during the adoption of a community's long-term plan, local governments have relied upon project-by-project analyses and debates to decide growth issues. This has led at times to over-regulation of new development and hampers the ability of the private sector to supply affordable and environmentally sound development (*i.e.*, low-impact, high density, and infill development).

"The Governor's growth strategy must contain provisions to reduce the volume and complexity of regulation that detrimentally affects residential and commercial development in California, while at the same time providing for genuine and balanced environmental protection."

To remedy this, land use planning and environmental review can and should be more closely integrated "up front." Each jurisdiction should prepare a Master EIR (Environmental Impact Report) contemporaneous and consistent with the Local Comprehensive Plan. Local jurisdictions would be empowered, if they wish, to fuse their Master EIR and Comprehensive Plan into a single document.

The Master EIR, or MEIR, should assess the cumulative environmental impacts of development, and identify those especially sensitive environmental areas where additional subsequent analysis is needed for development. Otherwise the MEIR and implementing zoning ordinances should set forth community-wide standards for routine development such as infill and smaller projects. Subsequent project-specific review should focus on ensuring that a project is consistent with the Master EIR; this may take the form of "tiered" or supplemental EIRs addressing aspects unique to the project, or mitigated negative declarations within existing law.

An interagency working group of CEQA experts has devised specific recommendations for reform, contained in an appendix as part of this report. Suggested revisions include steps to discourage the use of litigation by all parties in the planning/development process, or for use of CEQA for reasons other than CEQA's stated purposes. Statutory changes such as a tighter definition of what constitutes a "project" for CEQA purposes, provision of attorney's fees, and tighter statutes of limitation and limits on standards of review are possible.

The Council agrees, and it is the intent of California's environmental laws, that we should seek genuine environmental review and should seek to avoid procedural blockage. California's development approval procedures provide too many opportunities for private parties to reject outcomes, agreed to through the accepted public process, with which they simply disagree. Our current system promotes multiple veto opportunities for each participant in the process and encourages no one to expose him or herself to risk by making decisions. The Council believes that third party interests can be addressed more completely in a meaningful comprehensive plan process, and greater certainty and efficiency thereby achieved both for development and for protection of the environment.

CEQA should also be revised if needed to provide for regional or Statewide mitigation banking.

Finally, the State Clearinghouse within the Office of Planning and Research needs to play a stronger role and do a more effective job of coordinating the review of CEQA-related and planning documents submitted to State agencies. Stronger internal coordination among reviewing agencies, and external liaison with applicants and local governments, will materially improve what is already a complex and uncertain process.

4. Single-Issue Permit/Permit Streamlining. The Council strongly supports permit consolidation and streamlining. California's business, development, *and* environmental communities face inconsistent application of sometimes poorly designed and complex regulations. This has come about because State, regional, and local governments have not managed growth, but have instead promulgated project-specific regulations to deal with environmental and other growth-related issues. These regulations are often administered by unrelated entities at different layers of government with little coordination or certainty in application. The Governor's growth management strategy must contain provisions to reduce the volume and complexity of regulation that detrimentally affects residential and commercial development in California, while at the same time providing for genuine and balanced environmental protection.

The basic idea is to (1) reduce the number of permits that must be obtained; (2) concentrate as much as possible of actual permit administration at the local level. The goal should be a single land use/environmental permit, issued by the traditional local authority but mandatorily informed by integrated criteria fed into and through the State. Alternatively, to avoid additional administrative or technical burdens on local governments which they may not wish, a consolidated State permit process can coordinate closely with and funnel into a comprehensive local permit process in such a way to achieve the same end. The State should also continue to make available necessary technical and scientific assistance to local governments for this purpose.

Either through the Comprehensive Plan guidelines or separately, the Office of Planning and Research, through its Office of Permit Assistance, should prepare and provide a master list of permit criteria for development projects, to integrate criteria for permit approvals from existing State agencies. The creation of a single Cal/EPA environmental permit (see below) should be a step toward this process. Complete criteria for permit approvals should also be set forth in each jurisdiction's local comprehensive plan. The traditional local permitting authority — city or county — ultimately should issue a single permit or conduct one consolidated permit process, instead of requiring applicants to obtain multiple permits or endure multiple processes from different agencies.

This process also offers a further opportunity for the State to sort out and assess the aggregate impact on development of all its policies, through the criteria integration process. This streamlined and integrated approach should make California more competitive with other states.

Care should be taken that the single permit does not end up superimposed over the existing system, thereby resulting in a new layer of review and permit issuance and increased time

and costs. In addition, such a permit regime should be designed so as not to expand the application of State laws or local requirements to projects that are not now affected. It is also true that permit streamlining and consolidation will be a complex, long-term undertaking necessarily evolutionary in nature.

The Council recommends, accordingly, that the basic building blocks be put into place for an eventual Single-Issue Permit. Much of this is already underway through Executive Order W-35-92. An interagency effort coordinated through the Office of Permit Assistance (OPA) is formulating guidelines for individual permitting agencies or departments, such as the programs under Cal/EPA, to proceed internally to streamline their permitting, and then to work through the task force to integrate it with other State and federal permits. This effort should include enforcement of the Permit Streamlining Act and clarification of its interaction with CEQA. A second task force, also led by OPA, is designing streamlined permitting guidelines with local government. OPA has existing authority, under Government Code Sections 65922.3 and 65946, to develop consolidated or master state permit information forms, and to assist local governments in doing the same through guidelines for local permit streamlining. This process includes the full participation of local government, towards the ultimate goal of one permit, or at least one permit process.

"There are sufficient water resources to accomodate continued population and economic growth through better management."

This area also offers the prospect of making explicit the integration of three key concepts in local land use reform, namely, greater certainty of both development and conservation, minimization of CEQA review of individual projects through a Master EIR at the plan level, and single-issue permitting itself. Specifically, State growth guidelines can be used to address most, if not all, state and regional-level land use permitting. Adoption of a local comprehensive plan and Master EIR in compliance with those guidelines could trigger delegation of State and regional permitting authority to local governments.

There are, without question, substantial obstacles to a complete degree of permit integration. First, land use permits may be different than operating permits, which are periodically renewed and may require ongoing compliance. Second, local delegation may frustrate greater consistency in permit administration, which is also a goal. Some federal permits may not be delegable. Finally, a number of State-level environmental permits require specialized technical staff, although this could be provided to local jurisdictions.

In the meantime, other permit streamlining alternatives may also be explored, including, as mentioned, close coordination of consolidated State and local permit processes; State delegation agreements to those local jurisdictions with sufficient staff resources; use of industry compliance plans in lieu of individual environmental permits; and designation of lead permit agencies to reduce duplication and overlap.

5. Redevelopment Agencies. The Council supports the continued local use of redevelopment powers as both an economic development and infill housing tool. However, redevelopment agencies (RDAs) should be restricted as to what may be denominated as "blight." Any capital gains in the sale of RDA real property should be apportioned according to the date when the RDA was formed, so as to avoid windfalls in unrealized appreciation at the expense of counties.

WATER

As the State's population and economy continue to grow, some voluntary transfer mechanism or mechanisms inevitably must be a part of overall water policy. The Growth Management Council believes that water supply is not a reason in and of itself to limit or control growth in California on a statewide basis. There are sufficient water resources to accommodate continued population and economic growth through better management, including conservation, voluntary transfers, and additional storage and conveyance facilities.

The water component of the growth management recommendations consists of two items: (1) the long-range State Water Plan incorporated into the Integrated State Plan; (2) regulation of voluntary water transfers consonant with the State's growth management goals.

1. State Water Plan. The Governor's Water Policy Task Force, on which many of the Growth Management Council members serve, has been drafting recommendations for a long-range water strategy for California for the next twenty years. These recommendations include buy-out of marginal irrigated aglands, additional storage, supply, and conservation, and balanced wildlife and fisheries protection. These recommendations should inform the preparation and development of a State Water Plan, to be built into the Integrated State Plan.

2. Water Transfers. The State should facilitate voluntary transfers in the context of an overall water plan and with fully adequate protections for sending areas and third party impacts. Such transfers should be on such terms and conditions as further the State's growth guidelines.

TRANSPORTATION

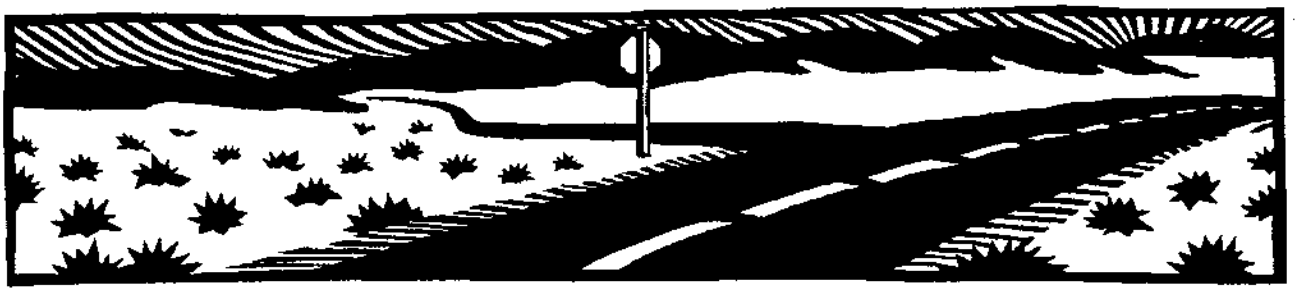
The Council recommends a number of measures in the transportation area as part of an overall strategic growth program:

(1) A unified Statewide transportation plan, as part of the integrated Integrated State Plan.

(2) Strengthening congestion management planning at the regional level, and making improvements in the CMP process.

(3) Removal of funding constraints on specific modes of travel.

1. California Transportation Plan. Following the directive of Executive Order W-36-92, there should be development of a unified Statewide transportation plan, sufficient to meet the requirements of the new federal 1991 Intermodal Surface Transportation Efficiency Act (ISTEA), with Caltrans as lead. In addition to those agencies specified by ISTEA, there should



be participation by interested or affected State and regional bodies, including ARB, HCD, CEC, and OPR because of the land use housing/air/transportation/energy linkages; Metropolitan Planning Organizations (MPOs) and new COGs (often the same); as well as local agencies, the federal government, the private sector, and public interest groups.

The State transportation plan should be integrated into the Integrated State Plan and should be consistent with air, housing, and energy plans — all similarly integrated — and vice versa. All county and regional Congestion Management Plans should be consistent with the State transportation plan.

The plan should focus on development of transportation facilities and programs that function as an intermodal State transportation system. It should provide common transportation goals, along with steps for implementation, identified sources of funding, and a schedule. The plan should treat all means of meeting transportation demands in the State, regardless of ownership, as a single unified system. The Integrated State Plan itself should propose prioritizing State transportation investments on the basis of maximizing return in conjunction with State investments in other infrastructure such as housing, water/sewers, etc.

"The California transportation plan should treat all means of meeting transportation demands in the State, regardless of ownership, as a single unified system."

The advantages of a unified Statewide transportation plan should include conserving resources now committed to redundant services; providing a basis for prioritizing limited resources to best meet increasing demand for transportation services; improving service through coordinated linkages between different travel modes and transfers; and providing greater focus on transit, high speed rail, and other aspects of congestion management. The plan should also include new travel technologies and "wiring the State" with optic cable towards the end of encouraging telecommuting and widespread data transfer capacity. Focus also could be put on rural parts of the State as part of economic development.

Finally, the plan should address issues facing California's goods movement, including 12 major commercial ports, including access, the benefits and minuses of greater coordination, and regional or State port authorities. The plan should also incorporate and integrate the existing Statewide aviation planning and address issues of State concern regarding siting of new international airports, airport/ground transportation access, and the impact of new transportation technologies such as high-speed ground transportation and vertical take-off aircraft on short-haul air travel.

2. Regional Congestion Management Planning. Under current law, Congestion Management Agencies (CMAs) have been created in the 32 of California's 58 counties designated as urban, in order to integrate land development, air quality, and transportation decisions. They are to produce Congestion Management Programs (CMPs), to qualify for available State transportation funding under Propositions 108, 111, and 116. The first cycle of CMPs from this legislation were due to be completed in the fall of 1991, for incorporation into Regional Transportation Plans (RTPs) and Regional Transportation Improvement Programs (RTIPs). RTIPs were due to the California Transportation Commission in December 1991.

The congestion management law provides for regional coordination of county-level CMPs in California's larger, multi-county urban areas. Existing regional transportation planning

agencies are required to evaluate the consistency of the CMP with the RTP, and if it is consistent, incorporate the CMP into both the RTP and the RTIP. If the regional transportation planning agency finds the CMP to be inconsistent, it may exclude any project in the CMP from the RTIP.

As discussed earlier in these recommendations, newly designated COGs should undertake the functions of current regional transportation planning agencies, consistent with federal legislation. This new authority should be used to integrate, not eliminate county CMPs. CMPs and local transit plans should be folded into RTPs and RTIPs, which in turn should be folded into the State plan. In important instances (Bay Area, Greater Los Angeles), these planning functions will be multi-county, in which case the existing county-level CMP process should remain as a subregional level of planning. In other instances (San Diego), it may make no difference because the region already is single-county.

Additional changes should be made in the CMP process. First, CMPs do not address the entire transportation system, but only selected roads and bus and rail services. It, like the Statewide transportation plan discussed above, should treat transportation as a unified system, including bridges, ports, airports, and transit systems, and all modes of travel in order to maximize efficiency.

Second, CMP law establishes standards for Level of Service (LOS) for an identified system of principal arterials and State highways. These standards exclude interregional travel, travel between counties, and travel from low income housing from LOS calculations. These trips generate automobile emissions, congestion, and significant traffic patterns, in particular intra-regional commuting (*e.g.*, between Orange and Riverside Counties). These exclusions should be repealed in order that the full consequences of transportation impacts be considered. Local practice should be reviewed, however, to assure CMP law is not used to block affordable housing.

Third, an unintended consequence of level-of-service (LOS) traffic standards in Florida and perhaps elsewhere has been to promote further sprawl and dispersal of development to outlying areas. Such standards can also be used deliberately to prevent unwanted development. To avoid this, the CMP process should specifically provide for special transportation control measures in addition to locally identified Deficiency Plan measures for principal arterials that are identified as being in an area suitable for higher density development and that fall below adopted LOS standards. In connection with this, existing CMP legislation provides no definition of "principal arterials." This should be remedied.

Fourth, detailed level-of-service intersection standards which would limit infill projects and central city development should be reduced in the CMP process. Again, land use and traffic issues should be addressed through the local comprehensive plan, rather than through new ordinances and regulations.

Finally, the existing CMP process may offer the opportunity to coordinate the development-related components of congestion management plans, and new local comprehensive plans.

3. Removal of constraints on modal funding. Much of transportation funding suffers from inflexibility in being mode-specific (*i.e.*, limited to a particular means of travel such as road or rail), without consideration of intermodal transfers, modal efficiencies, or the needs and potential of a unified transportation system. Preferred funding for particular services or facilities skews decisions toward those that will receive the most funds, to the detriment of those which do not, regardless of need or utility. Interstate highways, for example, have

received a 90-10 ratio of federal to State funds. ISTEA attempts to remedy this situation by providing flexible funding programs that may be used for alternative mode transportation projects and, in some instances, on non-capital programs.

Removing such constraints within the context of the State's unified transportation planning opens decisions to a range of alternative solutions. The new federal ISTEA reauthorization takes a step in this direction, with more flexibility in the distribution and use of funds. Similarly, flexible funding should be made part of any implementation strategy for the Statewide plan by pursuing development of a single State transportation fund. Such a fund would remove modal funding constraints to complement the greater flexibility in the use of federal funds and greatly enhance the State's ability to provide a balanced system for all Californians. Existing State transportation funding mechanisms should be inventoried and examined by Caltrans to see if such improvements could be made, and legislative proposals made to eliminate such constraints.

HOUSING

Housing is a key element in strategic growth and better land use patterns. The failure to properly plan for housing results in many of the adverse effects associated with growth, including higher costs. Local resistance to increased housing drives new construction to outlying areas or forces higher occupancy of existing stock. The result is urban sprawl outside of established urban areas, and more crowded and more expensive housing within. The combination of limits on property taxes, and distribution of the local share of sales taxes on the basis of where they were generated (situs method), leads to local governments favoring tax-generating commercial uses and shunning housing, which consumes more services (police, roads, schools, fire protection) and generates fewer taxes. This is the so-called "fiscalization of land use." As a result, jobs tend to be one place, while housing for employees tends to be elsewhere, often in outlying areas.

Eventually, employment and commercial centers will "catch up" with this commuter-driven housing (Orange County is perhaps the best example), but in the meantime there will be many years of wasteful driving and development patterns. It is this dispersal of housing disconnected from commercial and service centers, rather than urban sprawl *per se*, that increases commutes, traffic congestion, and adverse air impacts. Calls for higher densities and more compact development, which are grounded in esthetic concerns and legitimate desires to preserve open space and agriculture, thus may be distinguished from the issue of jobs-housing balance, which is more immediately pertinent to traffic congestion and air quality. Housing is important to both issues.

Besides helping to correct growth problems, the adequate provision of housing in appropriate places serves the State's economic development objectives. The lack of housing affordable

to, and accessible by short commute for, California's workforce has deterred the location or expansion of major employers. The high cost of labor, which affects businesses large and small, is in large part due to the cost of housing.

The Council recognizes that housing presents potential for conflict between State and local governments in the growth arena. Local governments by definition represent and respond to existing residents, who usually have little interest in welcoming new residents to add to congestion of schools, roads, and other facilities. Yet even slight increases in density can lead to major savings in open space and in infrastructure costs, while increasing the supply and affordability of housing.

"The State has an overall interest in seeing that all its citizens are housed, and that regional development patterns make sense and do not raise unnecessary economic and environmental costs."

The State, by contrast, has an overall interest in seeing that all its citizens are housed, and that regional development patterns make sense and not raise unnecessary economic and environmental costs. The State cannot play beggar-thy-neighbor politics as some local jurisdictions do against each other. At the same time, local control over local development and land use is strong in California, and both necessary and desirable. A mandatory approach in the housing area is likely to draw a negative response as well as find implementation problematic, as is the case in many instances with present housing laws. A cooperative, incentive-based approach, with strong local authority and accountability, is more likely to be accepted and successful.

The Council feels, therefore, that the goals of the housing component in strategic growth should be to: (1) encourage and reward local jurisdictions that implement housing goals; (2) remove or diminish unnecessary regulatory barriers to housing, such as duplicative or uncertain review processes; (3) reduce or moderate the cost of housing, through encouraging more options, including smaller units, more apartments and townhouses, permitting higher densities, and restraining fees and assessments; and (4) streamline existing housing law. The major thrust should be to leave local governments relatively free to make their own decisions, but to use economic incentives and rewards to encourage housing. We should create a climate in which the private sector still produces housing that is affordable for most homebuyers and responsive to consumer demand. This will also minimize demands on the State's own housing programs. The market should function as freely as possible consonant with orderly development and environmental protection.

To encourage the housing market to respond, the State needs to assist and promote local government efforts to remove regulatory barriers and to adopt land use plans which are supportive of housing as well as environmental protection. Achieving these objectives requires effective State assistance to local planning efforts. However, rather than instituting blanket requirements which dictate specific zoning decisions by local governments or unduly limit local control, the State needs to see that clear goals are set for local governments, that assistance is available, and that each city and county is treated as the unique entity that it is.

The major deterrents to housing include economics, site constraints, regulatory constraints, local opposition, and inadequate public facilities. The recommendations below should address each of these concerns. Indeed, some of the recommended initiatives in other

sections are those that will be most beneficial to housing. Reforms proposed in local, State, and general processes, for example, should contribute materially to the objective of giving housing producers greater certainty and a more efficient process. Genuine CEQA reform, as another example, may do more for the housing market than any housing program adopted to date in California.

As a comprehensive approach to strategic growth, this report addresses many housing problems throughout its recommendations: better integration of planning and environmental review, permit streamlining, greater State support of related infrastructure, and growth guidelines that include incentives for densification, provision and trading of "fair share" housing, better jobs/housing mix, and closer integration of transit and housing.

In addition, however, because of the central importance of housing in strategic growth, the Council recommends a number of other steps:

(1) Identification in the State Housing Plan of regulatory barriers to affordable housing in California.

(2) Legislation to streamline and improve State housing law and the State Housing Plan, and to make building codes more flexible and less expensive.

(3) The suggestion of reallocation of part of the growth in local sales tax, on the basis of population or housing rather than situs, continues to be discussed; see below.

1. Regulatory Barriers. The Council recommends that the State Housing Plan, following interagency review in the Integrated State Plan process, identify and address regulatory barriers and exclusionary zoning practices in California. The Council recognizes that local concerns, and a high degree of environmental protection, are both legitimate and necessary considerations in a balanced evaluation of housing needs. The Council does have concerns, however, with a number of specific regulatory practices, including large lot minima in urban areas; systematic down-zoning; arbitrary permit caps and moratoria; excessive developer fees; unreasonable rent controls; blanket prohibitions on multi-family and other types of low-cost housing; and arbitrary restrictions on water or sewer hook-ups.

2. State Housing Policy. Existing State law, referenced in the Health and Safety Code and related to the building code, requires the Department of Housing and Community Development to develop a Statewide Housing Plan. This Plan should be integrated into the Integrated State Plan. The Plan should coordinate and direct the activities of the State's housing providers (there are currently 15 State entities with housing programs); comment and suggest regarding housing-related activities of other State entities (*e.g.*, State infrastructure investments); and offer guidelines and technical assistance to local governments.

Present housing element law is not working effectively. Much time and expense go into preparing these documents without commensurate benefit. In addition, the "fair share" allocation process lacks sufficient local input, is poorly coordinated with other State and federal laws, and is poorly implemented.

Housing element law should be streamlined, simplified, and integrated with other planning in the local Comprehensive Plan. Integration, together with clear housing performance standards backed by meaningful financial incentives for implementation, could eliminate the need for a separate, isolated housing element process. Such integration should not preclude direct provision of local and regional housing data to HCD and other entities administering housing programs. Indeed, Local Comprehensive Plans should be written in

such a way that they can satisfy data requirements for both State and federal housing programs.

Housing element law should be reformed to clarify, focus, and minimize the data collection and planning requirements on local government. In addition, the existing method of regional fair share allocations to cities and counties of "fair share" housing needs for four income groups should be replaced with numeric planning objectives for housing growth accommodation with performance standards to encourage a variety of housing. Local governments, with review and approval by HCD, should set their own housing assistance goals for lower-income housing development, rehabilitation, and preservation, based on the resources available and the ability of the local government to provide housing assistance.

There should be a rebuttable presumption that the "fair share" allocation process defines reasonable housing goals and projections; a jurisdiction's Comprehensive Plan should be required to justify any significant departure from fair share. Local adoption of approved housing goals should give a jurisdiction priority for State housing funds. Local governments without such goals should have less ability to reject housing developments which would help a jurisdiction meet regional or State housing objectives.

Finally, unnecessarily strict or expensive building codes should be moderated by adding a specific housing affordability mandate to the State commissions and departments with respon-sibility over code adoption.

3. Fiscal Incentives. The Council feels that it is important to identify and administer some fund of money to encourage and reward local compliance with housing goals. Genuine reform and implementation of housing law — actual performance — will occur through the provision of incentives to encourage local compliance with State housing goals.

One alternative considered was reallocation of part of the local sales tax now distributed on the situs basis. Council discussion focussed on reallocation, on the basis of population, of all or part of the incremental growth within each county. The Council rejected, early on, reallocation of base revenue, because to do so would unbalance existing city and county budgets, and be unfair since local jurisdictions accepted existing development in reliance on the existing tax allocation. In addition, even reallocation of incremental growth may have some of the same effects, since a number of local jurisdictions have incurred debt in anticipation of revenue flows; and in some circumstances might even risk turning new commercial and industrial development into undesirable land uses, since property tax share and local employment from such development may not be sufficient incentive to approve such development.

The Council also considered distribution pro rata to local jurisdictions on the basis of compliance with "fair share" housing allocations and/or the achievement of locally-defined housing goals. Such distribution might be preferable to reallocation simply on a per capita or population basis, because it specifically responds to housing rather than general population, and rewards affirmative behavior rather than population status. In addition, the amount of money allocated to each jurisdiction under a population-based scheme would be small, and while it might help ameliorate fiscalization of land use generally (*i.e.*, land use decisions on the basis of their revenue generation), population-based reallocation would be poorly linked to housing development specifically. On the other hand, some people believe that tax resources should follow people, which in any case ultimately will correlate to housing to a large degree.

A third possibility would be reallocation on the basis of compliance of Local Comprehensive Plans with State growth guidelines generally. In any event, such guidelines will likely include State housing goals including removal of regulatory barriers to housing and the zoning of sufficient land with appropriate densities for affordable housing, so that compliance will bring eligibility for additional State infrastructure funding.

Some Council members felt that the money incremental sales tax reallocation might yield (perhaps $400 million over the next several years) would not justify the administrative burden or the strong local opposition this would generate from many cities (there is also the constitutional consideration that such monies, if redistributed, must be redistributed within the same county or at most arguably the region, in order to remain "local"). Others felt it was important to mark a break from the "fiscalized" land use decisions of the past, or suggested such a change could be tied to resolution of the SB 2557 "booking fee" controversy.

Other potential sources of incentive funds for housing include bond money; redevelopment set-aside money (more than $300 million) that has not been used as required for affordable housing; or excess funds that the State receives, but is unable to spend due to the Gann Limit. Such funds could be earmarked for infrastructure investment through distribution to cities who are in compliance with State housing law.

As an alternative to fiscal incentives, State law also could strengthen development rights of owners in jurisdictions which have *not* adopted a local comprehensive plan in compliance with housing goals.

The Council recommends that the Administration initiate discussion with local government to examine these alternatives. Because of the direct fiscal impact of this area on cities and counties, local government must be a partner with the State in formulating appropriate remedial measures.

RESOURCE CONSERVATION

The Council makes two basic recommendations in the resource conservation area of growth management: (1) a resources conservation plan and inventory; (2) measures to encourage conservation of prime agricultural land.

1. Resources Plan and Classification. The Council recommends that there should be development of a State Resources Protection and Conservation Plan to be integrated into the Integrated State Plan. As part of that Resources Plan, the State should provide definitions and criteria (and, to the extent identification and inventories currently exist, data) for inventory and classification of resource lands of Statewide significance, including wetlands, parklands, prime agland, wildlife and conservation habitat, timberlands, watershed protection, utility corridors, and so on, with priorities within and between classifications as to importance of conservation and protection. These classifications and priorities should be recognized and addressed in local and regional plans. Guidelines should provide that land not be "over-classified" resulting in insufficient land readily available for development. The basic intent is not Statewide, resource-based zoning, but rather identification, both for conservation and information, of high-resource value lands of Statewide significance. The Resources Plan should be coordinated with approved Local Coastal Plans (and any other approved land resource plans where important resources have been addressed, such as in the Lake Tahoe region) to avoid inconsistencies and overlaps.

The Resources Plan should suggest appropriate alternative conservation and protection mechanisms, ranging from purchases, conservation easements, and prohibitions, to Transfer of Development Rights (TDR) systems, mitigation banking, or CEQA environmental mitigation fees tied to resource value of land conversions, to State support for development on existing infrastructured land with capacity, with pros and cons of each.

Any land use classification system should define a continuum of resource and land values, and any conservation mechanisms should apply fiscal incentives and disincentives, where possible and sensible to do so, to make the system work in a market-based economy. Any plan to set aside or conserve high value resource areas should also include a component to expedite the development of preferred development areas of low resource value as a matter of the "trade-off" between conservation and development. The development of any Statewide programs for resource-sensitive lands, such as wetlands or prime agricultural land, should be within this overall context of integrated land use.

2. Agricultural Protection. The Council recommends incentives to encourage the viability of the agricultural industry in California, while providing for efficiency and order in the modicum of conversion of agricultural to urban uses that necessarily will occur as the State continues to grow. The goal of State policy should be to prevent conversion patterns which unnecessarily compromise the entire agricultural industry.

The State has a huge amount of good farmland to sustain orderly conversion to urban use for generations while maintaining a viable agricultural industry. Basically, that means keeping it contiguous to existing urban areas, or allowing new towns where services can be delivered efficiently and traffic impacts are acceptable. Designated agricultural areas may be one area where reasonable urban growth boundaries may have currency, tied to higher densities as they should be wherever they might be adopted locally.

An interim study of the Growth Management Council raised consideration of specific measures toward this end, including:

- Review and redefinition of existing urban spheres of influence in prime agricultural areas, to phase contiguous growth, leaving a contiguous area of prime agricultural lands. Annexations or expansion of spheres of influence would be prohibited into this area during the pendency of each five-year Local Comprehensive Plan. Boundaries also would be designated around current development in unincorporated county areas. Higher density standards would be appropriate within these boundaries. These decisions would be up to local authorities, but would be encouraged by State guidelines.
- Review of the Williamson Act subvention formulae to concentrate on this contiguous central area of prime agricultural land. A disproportionate amount (40%) of the State's Williamson Act money is spent on close-in "urban" prime agland which is ultimately doomed to conversion in any event, and which constitutes only 4.7% of the acreage covered. Policies should be directed to relieve financial pressure that leads strapped agricultural counties to permit development outside city limits or spheres of influence.
- Williamson Act land should be incorporated into the resources inventory and classification system discussed above. The now outmoded (1965) Williamson Act land definitions

should be converted to agreed definitions which reflect both land quality and economic contribution, factor in long-term availability of water, and provide different levels of subvention to different classes of land. In addition, the capitalization rate formula in determining the use valuation should continue to be flexible in order to provide sufficient financial incentive to farmland owners.

- Standard Williamson Act contract terms should be reviewed to provide for cancellations only under restricted conditions. A rolling ten-year period was suggested as a feasible planning horizon to provide sufficient time for orderly conversion if necessary, and reduce short-term speculative land sales.
- The Williamson Act definition of compatible and allowable uses should be reviewed to ensure that farm-related income producing uses are not disallowed, but premature urbanization is discouraged. The Act is a tool directed toward a viable agricultural industry, not a generic open space mechanism; the two issues should be kept distinct.
- Comprehensive Plan/Master EIR Guidelines should specify consideration and treatment of agriculture and cumulative impacts of conversions of agland, in the Comprehensive Plans/Master EIRs of those counties with significant agricultural industries.

These suggested measures would not necessarily prohibit non-contiguous development on prime agricultural land. Instead, they would array a range of financial and market disincentives, contractual provisions, and planning guidelines to discourage it. Nor would they preclude consideration of "new towns" if carefully planned to ensure efficient delivery of services and prevent unreasonable congestion.

Any such measures, with the exception of the disposition of State Williamson Act funds, should be presented as guidelines, with local governments to have the final say in land use decisions. Methods also should be examined, such as transfer of development rights programs, to ensure that rural landowners are not disproportionately injured by new planning rules.

Since these recommendations, the Resources Agency has convened an Agricultural Lands Task Force whose review of these matters will be important. In addition, any changes in long-standing statutory regimes, like the Williamson Act, should be taken in the context of an overall approach to rural agricultural issues and to growth management.

ENVIRONMENTAL PROTECTION

The environmental protection component of the Growth Management Council's recommendations includes, in addition to the CEQA, permitting, and resource conservation elements identified elsewhere, the following: (1) preparation and inclusion of an environmental protection plan, and the biennial energy plan, into the Integrated State Plan; (2) factoring of "indirect source" controls into local comprehensive plan guidelines; (3) review of the organization of regional and local air districts to strengthen their accountability; (4) greater planning cooperation, such as joint designation of regional air districts and strengthened COGs as Lead Planning Organizations (LPOs) for conformity with federal air quality requirements; (5) Cal/EPA regulatory streamlining; (6) development of emissions trading and other market mechanisms for pollution control; (7) strengthening of local assistance in environmental monitoring and compliance.

1. State Environmental Protection Plan. Cal/EPA should undertake and prepare a State Environmental Protection Plan, to integrate air, water, hazardous waste, and other environmental protection on a Statewide basis, for integration into the Integrated State Plan. The State energy plan (Biennial Report) similarly should be integrated into the Integrated State Plan. Given the critical links between these two policy areas, the environmental and energy plans also should be better integrated with each other.

2-4. Air Quality. Clean air is of great importance to California's environment, the health of its citizens, and the vitality of its business. The striking increase in the number of vehicles, together with the marked susceptibility to air pollution of the areas of strongest anticipated growth — the Central Valley, and the "Inland Empire" of San Bernardino and Riverside Counties — make this an issue of great concern to the Council.

First, past debates over who does or does not have regulatory and land use authority over so-called indirect sources — large facilities such as shopping malls or sports arenas that "attract" a high volume of vehicles — should be resolved if they recur by considering and if appropriate integrating any indirect source guidelines from regional air districts and the ARB into the Integrated State Plan process described above. Local government should remain the basic land use and permitting authority, but its decisions also should be informed by air quality considerations that have gone through interagency review. Improved air quality should be pursued locally through plan-level guidelines, and not through additional project-level permits. Planning guidelines should be of sufficient definition to ensure that air quality issues are addressed.

Second, because of the interrelationship of air basins and the central role of both State and federal air quality regimes, air quality is equally a State as a regional issue. The role of regional air districts is important in a number of earlier growth management proposals — SB 929 (Presley), AB 3 (Brown), and SB 797 (Morgan) and the Bay Area's Bay Vision 2020. The Council agrees that regional air districts in the larger urban areas probably should be reduced in number to correspond with air basins. With the exception of the Sacramento urban area, this has already largely been accomplished. In less populated rural areas, where county supervisors sit as the local air board, reorganization may not make much practical difference.

Various growth management and regional reorganization proposals have differed in their provisions affecting regional environmental agencies, primarily air districts. Some concepts call for stronger centralization of all environmental programs into unified, integrated pollution control authorities. The impetus in these cases is to seek more effective environmental protection through organizations that can address the environment as a whole, thereby avoiding the risks of individual agencies merely shifting pollution from one media to another and at the same time removing regulatory overlap and inefficiency.

At the same time, there is a close relationship between these same regional environmental authorities, especially air quality; and other regional functions such as transportation and land use planning that this paper recommends be consolidated or coordinated in new Councils of Government. The question of whether to "regionalize" environmental authorities or centralize them, or retain the existing structures but with provisions for more effective

coordination, is a contentious one. For the time being, the Growth Management Council recommends both better planning coordination at the regional level, and more accountability and consistency at the State level, without wholesale structural change. Cal/EPA should review this area and work with the Growth Management Council on these matters.

Because air quality is increasingly related to land use, housing, and transportation patterns, it is important that the planning bodies responsible for these issues and the air districts work in closer cooperation. One such area addressed elsewhere in this paper is regulation of indirect air sources; another example is the role of congestion management planning and the new federal conformity requirements between air quality and transportation plans. The current process should continue whereby regional air districts, COGs, and regional transportation planning agencies share responsibility for planning under the federal Clean Air Act, in order to ensure proper regional coordination between air quality planning, local plan review, and transportation functions. One example of this is joint designation as Lead Planning Organizations (LPOs).

5. Regulatory Streamlining. The regulatory streamlining effort undertaken by Cal/EPA among its constituent boards and permitting authorities, is directly relevant to growth management because of the importance and impact of environmental regulation in land use planning. The streamlining effort should be coordinated with the Growth Management Council for mutual support and consistency with the State's growth management goals. This effort should be complementary to the interagency permit consolidation efforts under current statute by the Office of Permit Assistance within OPR.

Regulatory streamlining should include a recognition that economic impact and jobs should be considered in any promulgation of environmental regulations. Economic considerations are already included to some degree in many environmental programs, either directly in the case of water quality, or indirectly through the public hearings process for air quality regulations. However, they are not always accorded equal weight, and some programs are limited by federal statutes that allow no such considerations. Cal/EPA in the first instance should address this issue on a broader level in the State Environmental Protection Plan within the Integrated State Plan through a comprehensive strategic risk assessment, combined with an evaluation of the cost, and benefit, of environmental regulation.

6. Emissions Trading. Cal/EPA should pursue market and incentive-based regulatory mechanisms, including markets in emissions rights. The South Coast Air Quality Management District is already pursuing a major effort in this regard through its "RECLAIM" program, and Cal/EPA should investigate comparable efforts in other areas and media.

7. Local Assistance. The State should assist local governments with environmental information systems and technical assistance on meeting requirements. Regulatory reporting requirements should be consolidated. Common reporting/information systems should be developed for State and federal environmental programs.

CONCLUSION

California will not solve all its problems overnight, and if it did new ones would take their place. There can be no doubt, however, that the State's rapid growth has caught up with it. We need a thorough overhaul of our planning laws, our permitting process, our land use policies, our environmental review mechanisms, and our attitudes.

The Growth Management Council does not labor under the illusion that the recommendations it presents here will be accepted wholesale, or greeted by anyone without criticism and change. It is important to start, however, and start now. There are steps the Administration can take under existing law, and the Council urges that they be taken. Our common problems are worse than they might have been because they have not been dealt with in the past. Now is the time to change that.

Appendices
and
Attachments

CEQA WORK GROUP

Governor's Growth Management Council

A goal of the Growth Management Council has been to find ways to reduce unnecessary delay and uncertainty in permitting while ensuring rational planning and environmental protection. The benefits of increasing the efficiency of both planning and permitting processes are obvious. What is not so obvious are the causes and solutions for such delays.

Frequently, if a project has become controversial, that controversy centers around its environmental impacts. As a result, the California Environmental Quality Act (CEQA) is often singled out for blame when the project is delayed or denied. This is neither fair nor necessarily accurate. Procedural delays are also the result of common planning and zoning practices. Just as it is not accurate to blame CEQA alone for all project delays, amending CEQA by itself would not be sufficient to improve efficiency in land use planning and permitting. Reducing unnecessary delay will require careful changes to planning laws as well revisions to CEQA. In fact, all these reforms should be viewed as an integrated package. For example, the analysis of development alternatives and impacts that takes place during the preparation of a comprehensive plan and its EIR should not be forgotten in the city's or county's consideration of subsequent projects. A comprehensive system of planning that recognizes environmental effects, remembers them, and mitigates them without having to review every land use two or more times would mean fewer environmental documents.

After two decades of existence, CEQA is still misunderstood. Some developers still fail to budget the time necessary to prepare an environmental document, then complain when the project takes as long as it does. Some decisionmakers still look at CEQA as a dreary procedure that must be tolerated so that they can finally get to the point of approving a project or, conversely, as a nitpicky form of project review that is independent of other local policies and standards. Some citizens' groups still fail to understand that when it comes to protecting the community's environment or aesthetics, CEQA is a poor substitute for a thoughtful general plan and comprehensive community design/development standards.

The purpose of CEQA is to provide decisionmakers with sufficient information about a project's potential significant environmental impacts (as well as its alternatives, mitigation, etc.) to allow them to make a well-informed decision and mitigate potential adverse effects on the environment. CEQA documents are required to provide analyses of environmental impacts, but are not designed to resolve outstanding local land use policy issues. That is the role of the general plan or other such planning document. Similarly, CEQA is not designed to either approve or deny a project — that remains the responsibility of the decisionmaking body.

CEQA provides a firm procedural basis for evaluating the potential environmental effects of projects. However, the open-ended nature of CEQA review can inject uncertainty into the decisionmaking process. The required level of detail and scope of an environmental review can be unpredictable, making project scheduling more difficult. This unpredictability or perceived randomness can also create the impression of misuse (from the points of view of both proponents and opponents of a given project), where none has actually occurred. Similarly, CEQA-related litigation is often cited as a common source of project delay. However, according to a survey by the Association of Bay Area Governments, only about one

percent of all local projects are the subjects of actual CEQA litigation, although the threat of litigation may indeed lead to delay and project changes. Even so, arguably citizen initiatives and growth caps have had a greater local impact.

The goal must be not to bury CEQA, but to revise it. CEQA is an important part of California's strong environmental laws. "Gutting" CEQA or making it ineffective is not in the State's best interests, nor would it comport with California's long-standing commitment to environmental quality.

The CEQA work group discussed means of integrating local planning and CEQA activities for the purpose of reducing the need for project-specific EIRs, while concurrently ensuring environmental quality. The participants brought to the group expertise in CEQA, planning, and permitting. The following report recommends changes to existing planning and CEQA law and procedures.

Local Comprehensive Plan (as in Strategic Growth Proposals)

The basic purpose of land use planning is to identify those areas which are intended to be developed in the future, and those which are not. A necessary step for improving the efficiency and effectiveness of permitting is to revise the requirements for local general plans so that greater reliance may be placed on their land use designations. As today, the local comprehensive plan would be required to reflect State policies and guidelines, but those policies and guidelines should be strengthened and clarified to offer better guidance to local plans.

Recommendations:

- Replace current general plan requirements with a new local "comprehensive plan" that integrates land use, housing, transportation, resources and habitat, safety, etc. issues into a single policy document by streamlining and recasting the seven distinct general plan elements currently required. In addition, the local comprehensive plan would be required to reflect State policies and encouraged to meet State growth guidelines.

  Also require that, unlike current general plans, the local comprehensive plan include a capital improvement and financing component that requires the advance planning of infrastructure improvements and financing to service anticipated growth. State comprehensive plan policies and local comprehensive plan guidelines would define the minimum level of capital improvements that must be provided to adequately accommodate projected growth over the comprehensive plan's time horizon.

  - Local governments should continue to have flexibility in meeting State requirements. In practice, the local comprehensive plan may be more specific in some portions of the jurisdiction than others so that it can provide sufficient detail to guide project decisions and to ensure that provisions are made for growth. The comprehensive plan might be implemented through redevelopment plans, specific plans, zoning, or other existing methods.

  - Require all local comprehensive plans to ensure that sufficient land with adequate infrastructure (or provisions for infrastructure) and amenable development standards is available to accommodate the growth projected within the community over the five-year update period. Provision should be made so that a community has sufficient growth capacity available outside of the "Special Study Areas," or "SSAs,"

discussed later in this report. In this regard, State standards could be set forth in the State comprehensive plan and the CEQA Guidelines and might include: (1) limiting the use of SSAs to identified natural habitat or resource areas; (2) excluding infill or certain redevelopment areas from inclusion within SSAs; or (3) requiring the area outside of SSAs to provide demonstrably sufficient land which can be developed to meet projected local housing needs and reasonable levels of future development.

- As it does now for general plans, OPR should prepare local comprehensive plan guidelines. The guidelines would describe the content of local comprehensive plans as well as the process for preparing such plans.
- Require local comprehensive plans to be based on a 15-20 year time horizon and allow them to be amended no more than once a year. By reducing the frequency of amendments to local plans (four opportunities per element are currently allowed each year), a city or county would be compelled to take a comprehensive look at the effects of such changes.
  - Require a comprehensive update of the plan and its MEIR at staggered five year intervals.

Master EIR

Pursuant to current law, cities and counties prepare an EIR or, less frequently, a negative declaration when adopting a new or amended general plan. CEQA and the CEQA Guidelines provide that environmental analysis of subsequent development projects may be avoided if the situation is not substantially different from that discussed in the general plan EIR, or may be subject to a shortened analysis by "tiering" the subsequent project analysis upon that already done for the general plan EIR. In practice, however, neither of these procedures is commonly used, and new EIRs are required for projects even when they are consistent with the general plan and largely discussed in the plan EIR.

Current law requires that an EIR identify a number of measures that, if implemented, would eliminate or reduce the environmental impacts expected to occur as a result of the project. When a general plan is adopted, certain of the mitigation measures contained in the plan EIR can be incorporated into the plan itself. However, because the plan is a statement of policy and not a regulatory document, those mitigation measures which are regulatory in nature cannot be effectively implemented without the adoption of a separate ordinance. All too often, in the course of adopting a general plan the regulatory measures identified in its EIR are never put into place.

The processes of planning and environmental analysis must be integrated. Cities and counties could make better long term use of the environmental documents prepared for their plans. The primary focus of environmental review can be shifted to the plan level in order to avoid redundant environmental documents and additional review of routine projects, such as infill. Enhanced plan level review, combined with changes to planning law should do a better job of assessing the cumulative impacts of development and requiring mitigation for subsequent development projects, thus providing better basic environmental protection. At the same time, adopting community standards to mitigate recognized environmental effects would ensure that a given level of environmental protection is maintained.

Accordingly, we must recognize that not all projects warrant environmental review. In routine cases, community-wide development standards can be just as effective as environmental documents in maintaining environmental quality. For instance, small subdivisions,

multi-family residences, and infill projects are often subject to environmental review. However, if such developments are implementing an up-to-date general plan and meet local development requirements that mitigate environmental impacts, the need for additional environmental review should be greatly reduced. If the project exceeds a basic threshold of environmental impact, then it should be evaluated, but in the context of the entire planning and regulatory scheme.

Recommendations:

- Amend CEQA to require that a Master EIR (MEIR) be prepared for all local comprehensive plans at the time of their adoption. The MEIR would address the cumulative impacts of projected development, as well as alternative development scenarios. It would be a broad document addressing community-wide environmental effects. The MEIR would establish a foundation for subsequent tiered environmental review.
- The MEIR would identify those locales, if any, within the planning area which will need further, detailed environmental study prior to development. These "special study areas" (SSAs) would also be identified on the local comprehensive plan. Further, the MEIR would specify the particular environmental studies that are to be required within each SSA. The required studies would be completed prior to development within SSAs, and any necessary mitigation employed. This requirement would effectively establish the scope of future environmental review. No SSAs would or need be established if the community lacks areas requiring additional detailed environmental review. SSAs should follow statutory criteria and be the exception rather than the rule, especially in existing urban areas. For example, a vacant lot surrounded by other urban development would not typically be considered "environmentally sensitive."
  - Require that the local comprehensive plan address SSAs in the same manner as the rest of the planning area. SSAs could only be employed in areas which need specific, detailed studies which are beyond the scope of the MEIR. However, designation as an SSA would not be an excuse for not otherwise planning a particular area, nor could identification of an SSA be based on environmental effects not identified in the MEIR. This would prevent a city or county from dodging its growth responsibilities by simply designating all or most of the community an SSA.
  - Amend CEQA to require that subsequent negative declarations and EIRs for projects within SSAs "tier" upon the MEIR. Development within SSAs would fall into two categories: (1) Projects which, as a result of the studies submitted, are found to have a non-significant impact or limited impact which can be mitigated; and (2) projects which the submitted studies show would have a significant impact. A mitigated negative declaration would be required in the first case; an EIR would be required only for the second category of project, and only for those aspects of a proposed project not already treated in the MEIR or local comprehensive plan.
- Amend CEQA to require that the mitigation measures contained in the MEIR and found to be the responsibility of the city or county (as provided in current law) will be implemented by local development standards to be adopted by ordinance in conjunction with the local comprehensive plan. The development standards would effectively implement a minimum jurisdiction-wide level of environmental protection, based on the MEIR.

  - The development standards could include plan-related requirements such as "level of service standards," as well as environmental measures such as reseeding steep slopes or avoiding riparian areas as needed. Level of service standards would be used to establish thresholds for future infrastructure needs and improvements, linked to the extent, timing, and financing of the capital improvements needed for the implementation of the local comprehensive plan.

- Amend CEQA to provide that small and routine projects that are consistent with the comprehensive plan, comply with adopted development standards, and that are outside of SSAs would not be subject to further CEQA review. Such projects would be reviewed for consistency with the comprehensive plan and inclusion of all development standards.
  - Require agencies to establish thresholds of significance to guide the evaluation of larger projects. Projects exceeding such thresholds would require additional review in order to develop standards which mitigate their impacts.
- Revise the CEQA Guidelines to describe the contents of an MEIR, provide general impact thresholds relative to local comprehensive plans, establish criteria for the creation of SSAs, and establish minimum standards for "mitigation banking" programs. In addition, the list of CEQA exemptions could be expanded to include design review and specified infill development, if necessary.
  - Mitigation banking, which might include establishing development fees to fund the purchase of sensitive lands, or habitat conservation area programs mandating the preservation or restoration of specific habitat areas, can provide a jurisdiction-wide or region-wide level of environmental protection for sensitive plant and animal species. As part of the development standards adopted in conjunction with a comprehensive plan and MEIR, mitigation banking could integrate advance planning with environmental protection.

Project Review under the Local Comprehensive Plan and MEIR

The above model would effectively reduce the need for case-by-case environmental review of many individual projects as this analysis will be performed at the comprehensive plan stage. The three basic levels of project review are summarized below.

(1) Routine or infill projects that are consistent with the comprehensive plan, comply with adopted development standards, and located outside of SSAs.
  - The permitting process would review the project against the local comprehensive plan and applicable ordinances. Once plans are checked and found to comply with the plan and applicable development standards, the permit would issue ministerially in many cases.
  - Generally, no additional environmental review would be required. State/federal requirements enacted subsequent to the local comprehensive plan would apply to all permits just as they do today. Projects which exceed adopted environmental thresholds would be subject to limited review to establish mitigation measures.
  - This encourages routine development in those areas where it has been planned for and is best suited. At the same time, the development would be subject to development standards aimed at mitigating any environmental impacts.

(2) Projects within SSAs.

- These projects would be subject to further, focused environmental review resulting in the preparation of either a mitigated negative declaration or supplemental/subsequent EIR. The review would tier upon the MEIR so that potential impacts will be evaluated without the need for a full new EIR. All parties concerned would know the scope of the required environmental analysis in advance because the environmental review would be generally limited to those topics identified in the MEIR.
- Generally limiting the scope of the environmental analysis to the studies identified in the MEIR in effect performs, on an SSA-wide basis, the "scoping" process that currently precedes the preparation of individual environmental documents.

(3) Local comprehensive plan amendments, including private projects which require an amendment.

- A project-specific environmental document would be required for the proposal, the scope of which would be determined at the time.
- This does not offer the certainty or timeliness of development occurring in areas as originally planned, and would act as a disincentive to development that is not consistent with the comprehensive plan.

Regional-Level Agency

In response to local demand, new restructured COGs would act as distribution points for State data. In this capacity, a COG would make available to local governments State-generated information on transportation, air quality, land use, habitats, etc. COGs could also produce information and conduct research independently, as they do today. A common, readily accessible source of basic information would simplify planning activities, encourage consistency among local government plans, and reduce the effort needed to collect data for environmental analyses.

CEQA Challenges

The above "front end" procedural changes should reduce the frequency of CEQA challenges by shifting the focus of land use conflicts to more fundamental planning questions.

This may mean fewer environmental documents, but at the same time it would require tougher local development standards addressing environmental quality. Development standards offer predictability and consistency, ensuring the maintenance of a given level of environmental protection. It is simply inefficient to prepare environmental documents for each individual project for the purpose of imposing development standards if such standards could have been imposed by a community-wide ordinance. The information provided by EIRs can be used to develop community standards which will mitigate recognized environmental effects.

This proposal does not eliminate the ability of citizens to protest particular land uses. However, it increases the importance of the local comprehensive plan and moves the forum for protest primarily to that venue. This encourages a broad view of land use issues and their interconnections, including cumulative impacts. For practical purposes, the opportunity for third-party challenge on CEQA grounds would be reduced because fewer projects would be subjected to individual environmental review.

Further, it emphasizes local development standards so that in many cases the battle over conditions of development will be fought once, over the community standards, rather than many times, over the ad hoc standards to be imposed on individual projects. This offers a more rational approach to development — identifying areas to be developed and the standards for that development.

The following general recommendations are also made in order to limit unreasonable CEQA challenges:

- The State should establish one or more optional alternative dispute resolution procedures at the regional level, such as mediation, which may be utilized instead of court action to resolve CEQA disputes. Any such procedure should be subject to time limits for decision.
- Narrow the use of the "fair argument" standard. Courts have interpreted the fair argument standard to hold that if there is any substantial evidence from which a fair argument can be made that would indicate the existence of a significant environmental effect, then a negative declaration is not appropriate and an EIR must be prepared. Instead, the standard of review in the event of court challenge to infill projects which are approved based on negative declarations would be the narrower "substantial evidence" test, provided that the applicant has included in the project the mitigation described in the comprehensive plan. This change would require that substantial evidence be presented showing adverse environmental impacts, with the result that an EIR should have been prepared. In operation this means that certain project approval decisions, if founded on evidence, are entitled to a presumption of regularity and challengers must meet a greater burden of proof.
- Revise the definition of "project" in both statute and the CEQA Guidelines to clarify that the scope of required CEQA review is limited to clearly environmental effects.

The following possible CEQA changes were discussed, but were not recommended at this time for a variety of reasons:

- Limit CEQA-related and other challenges to planning decisions to binding arbitration proceedings, removed from the courts entirely. The State would establish standards for such arbitration, including the use of masters familiar with CEQA and planning law and specific periods for initiation and completion of arbitration. Group members agreed that specific alternative dispute resolution tools such as binding arbitration could not be recommended until there is a more concrete idea of what a growth program will entail and a better analysis can be made of their pros and cons. Binding arbitration is currently available to CEQA litigants, but is seldom used.
- Create a special land use appeal board, as has been done in Oregon, that would adjudicate challenges to the adoption or revision of comprehensive plans and related MEIRs. The judges or masters would be selected to serve on this court by the Governor and would be required to have expertise in planning and CEQA law. Specific periods would be established during which a decision may be appealed and the appeal board must render its decision. Members expressed reservations over the idea of a special land use court or appeal board on the premise that this might make frivolous appeals easier. On the other hand, evidence from Oregon's analogous "Land Use Board of Appeals" indicates that only about one percent of all actions are appealed.

- Specify in CEQA that the losing party in arbitration would pay the winner's costs, with the arbitrator retaining some discretion for awarding costs on the basis of the decision. Awarding full costs may not be justified if there is no clear "winner." Some members noted that this is already the case in CEQA litigation. Again, the group did not feel comfortable in making specific recommendations regarding alternative dispute resolution mechanisms.
- Establish that plans and MEIRs that have been certified by the new COGs be given a presumption of validity in any challenge. This would increase the burden of proof on the challenging party, particularly with regard to the MEIR. This idea was not supported by all group members. Concern was expressed that COGs, being composed of local government officials, would certify plans on the basis of least common denominators, failing to give compliance with State policy a critical review. Alternatively, State agencies could be allowed to retain the ability to challenge plans under current rules. Another alternative might be to allow jurisdictions to request State certification of their plans and MEIRs, thereby gaining a presumption of validity.
- Eliminate all third party challenges to specific project decisions. At the same time, allow duly constituted government agencies — neighboring jurisdictions, State or regional agencies, and county district attorneys, for example — to challenge individual projects. The group did not recommend totally eliminating third-party challenges for a variety of reasons, including assertions of due process considerations and the need for a check on illegal or unreasonable actions by cities and counties. The group members believe that reforms to planning law and the recommended changes to CEQA would make third-party challenges less frequent and eliminate many current opportunities for challenges on CEQA grounds when projects are consistent with the local comprehensive plan.

Final Word

In closing, it must be noted that there were a number of issues on which the members of the work group did not agree. As mentioned above, the question of eliminating third-party challenges was hotly debated. In addition, a proposal to require the use of specific plans as a means of specifying development increments was discussed in detail. Some members of the group saw specific plans as a convenient method of delineating areas to be subject to development over a five year period and a tool for detailed land use planning. Others felt that preparing both a comprehensive plan and mandatory specific plans would be as much work as preparing a detailed comprehensive plan and would have the potential of creating inconsistencies between the plans. In the end, the idea was left for another day. Finally, some members felt that these recommendations may simply substitute new, equally onerous regulations on development, and urged that all subsequent development consistent with a local plan be categorically exempt from CEQA review.

The debate and issues of disagreement among the work group members form a microcosm of the larger debates that will undoubtedly accompany these proposals as they move through the legislative process. As with this report, the final product may not meet with the complete approval of all parties.

BUILDING CALIFORNIA'S FUTURE: USING THE CALIFORNIA INFRASTRUCTURE FINANCE AGENCY TO SUPPORT LOCAL INFRASTRUCTURE INVESTMENTS

Report of the Growth Management Infrastructure Panel

INTRODUCTION

Infrastructure is the physical backbone of our modern society. Public investments transport California's citizens and products, educate our children, provide our water, remove our waste products, and clean up our environment. Like a broken back, a broken infrastructure can paralyze the economy.

The Congressional Joint Economic Committee estimates that, due to our failure to invest enough to maintain older infrastructure, the U.S. will face a $450 billion backlog in needed spending by the year 2000. A crude guess at a comparable number for California would be well over $50 billion. The recent long-range capital outlay plan submitted by the Department of Finance has planned for $54 billion in State outlays alone.

We already see the results of failing to modernize our state's infrastructure: California's productivity, which grew much faster than the national average in the 1950s and 1960s during our investment boom (when defense, education, water, and highway investments were all high), since the late 1960s has limped along, growing only half as fast as the country's. Clogged freeways have wasted billions of hours of lost work time; inadequate schools have graduated hundreds of thousands of underemployed workers. As a result, wages have fallen behind inflation — the average California worker today makes 13% less today than a generation ago (the average U.S. worker's wages have stayed about the same).

Infrastructure investments also more than pay for themselves: economic studies generally report social rates of return (the total return on an investment to all members of society) on the order of 25% or more.

Infrastructure, like other investments, is an up-front expenditure that yields benefits over the life-span of the road, bridge, reservoir, school, or waste treatment plant. Since these assets often have useful lives of fifty years or more, they can be financed through long-term borrowing in the bond market. In fact, payment *should* be spread over time, since several generations will benefit from the investment.

The Panel believes that, as California continues to grow, the State must actively assist those jurisdictions who are willing to build needed infrastructure and to do their share, including those jurisdictions who are willing to cooperate with their neighbors and approach infrastructure needs on a regional basis where needed. Infrastructure of all kinds—roads, sewers, water facilities, schools, modern telecommunications—can be a powerful impetus to strategic economic growth to revitalize California's prosperity and create jobs.

Accordingly, the Panel proposes expanding the powers of the current California Housing Finance Authority (CHFA) to infrastructure generally. The renamed California Infrastructure Finance Authority (CIFA) would act as a State infrastructure bank, with a portfolio of methods for meeting the infrastructure needs of California residents without placing the State in an unwarranted risky situation. It should be given broad discretion to choose, based on resource constraints, a mix of several different approaches. They are discussed below in

order of their fiscal impact. By granting an expanded CIFA flexibility, the State can give it the agility to respond to changing market conditions while protecting the State's fiscal health.

ROLE OF CIFA AS A STATE INFRASTRUCTURE BANK

Under the terms of this proposal, CHFA would be renamed CIFA, and be authorized to:

(1) Provide publicity and technical support for the use of VLF revenues to back bonds.

(2) Pool local government borrowing.

(3) Provide matching grants to qualified jurisdictions.

(4) Directly buy down interest rates.

A fifth mechanism, provision of loan guarantees, by pledging either the State's "full faith and credit" or "moral obligation" to repay, is more controversial and potentially risky (see below).

In all cases, CIFA should focus on **two classes of borrower: those jurisdictions that meet growth management objectives** (e.g., zone for higher housing densities, especially along transportation corridors); and those **jurisdictions whose further (desirable) development is particularly constrained by inadequate infrastructure** (e.g., depressed rural economic centers). School construction is specifically excluded from all of these options, because school districts' needs are a unique issue to be dealt with separately.

BANK POWERS

Relatively Inexpensive Powers

(1) Publicity and technical support of local infrastructure bonds backed by Vehicle License Fees (VLF).

Local jurisdictions presently have the authority to secure bonds with VLF revenues, as provided in Sec. 25350.55 of the Government Code, passed in the 1989-90 session (AB 1375, Costa.) Rating agencies have assigned such secured bonds an "A" rating. Any jurisdiction whose general obligation bonds are rated below A would have their credit enhanced by pledging VLF dollars, saving between .20 and .80% on their interest rate. This type of financing is particularly appropriate for infrastructure bonds since the projects they pay for typically are pure public goods (i.e., they do not charge back a reasonable rate of return to their users) such as local roads and bridges, water delivery systems, and sewage treatment plants. VLF funds, which are linked to economic growth, are an appropriate way to pay for projects intended to generate that growth.

According to the rating agencies, this credit enhancement has hardly been used—only two jurisdictions have tried, and neither has succeeded—for several reasons: ignorance on the part of both locals and underwriters due to lack of publicity; very strict guidelines on debt service coverage; and underwriters' general reluctance due to the volatile nature of VLF (which varies widely with the business cycle, since purchases of new vehicles are usually discretionary and can be delayed in a recession).

Standard and Poors feels that an active effort by the State to publicize this credit enhancement tool and offer technical assistance would legitimize it and begin to generate borrowing volume. In time, debt service coverage requirements might be moderately reduced (from the

current guideline whereby a jurisdiction's lowest annual VLF revenue in the past five years must exceed 2.5 times the bond's annual debt service). Volume would probably never be very large—perhaps a few tens of millions a year—but the virtually costless reduction in borrower's interest rates would be, according to representatives from the League and CSAC, attractive to a number of jurisdictions.

Under this option, CIFA would be responsible for publicizing this credit enhancement and offering assistance to jurisdictions interested in taking a proposal to market. By informally "sponsoring" the first few successful offerings, CIFA would place a State seal of approval on the securing of infrastructure bonds with VLF, thus encouraging greater market acceptance.

Pros: Very modest cost to the State, and no additional cost to locals.

Cons: Benefits are correspondingly modest. The speed of their arrival depends on market acceptance of these secured bonds.

(2) State lease/purchase pooling of locals' borrowing.

Access to the bond market is not equal for all parties. Small political entities pay a higher price, not only because of any differences in their credit-worthiness (very small cities may be entirely unrated), but because of the fixed costs of a bond issue. The typical $20,000 in bond counsel and other fees is a significant fraction of a $500,000 or $1 million borrowing.

The League of California Cities (LCC) and the California State Association of Counties (CSAC) each have programs to increase market access by "bundling" together the capital needs of several members. In each program, entities' borrowing requirements are pooled. Individual pool participants pay somewhat different interest rates, reflecting their respective ratings. The League's program (the California Cities Financing Corp.), concentrates on lease/purchase financing of real property, where private investors borrow to develop assets that are in turn leased back by cities. The program has made loans for facilities in an average of seven cities or special districts a year since it began in 1985.

CIFA could take advantage of and encourage expanded participation in existing lease/purchase pooling programs run by the League of California Cities and CSAC, without any State subsidy. Local entities would sign a certificate of participation and lease a project paid for and owned by the State. Although the local entities would not receive reduced interest rates, they would save money by splitting one-time costs (e.g., bond counsel). League and CSAC representatives indicated that State involvement would significantly add to the attractiveness of pooling since the State would be showing its support of this program.

Pros: Almost no State cost to administer. Eliminates requirement for local entities to pass a bond measure.

Cons: As this is a minor extension of the existing private program described above, local entities have little incentive to meet the State's growth management requirements. The added savings to them are minor. More importantly, this could be portrayed as a subversion of Prop. 13, because local governments can participate by voting to lease the infrastructure rather than requiring voter approval for a bond measure. Finally, the State would be financially exposed if a local jurisdiction ceased making lease payments. Because the infrastructure is legally leased and not paid for with borrowed money by the local government, during hard economic times a local government could vote not to pay the lease, but they would most likely retain the use of the infrastructure.

More Expensive Powers

The suggested CIFA powers below entail more substantial State subsidies to local borrowing for infrastructure projects. These would substantially increase the attractiveness of such projects to local authorities.

(3) CIFA should provide matching grants to qualified jurisdictions. CIFA would issue general obligation bonds at the State's interest rate, with the proceeds used to make grants and loans to cities and counties to fund local infrastructure improvements. Direct grants should be made on a matching fund basis (50/50) to those jurisdictions that meet voluntary strategic growth guidelines.

When lending, CIFA could charge borrowers the State's interest rate (plus one or two basis points — hundredths of a percent — to cover administrative costs). Local jurisdictions would see significantly lower borrowing costs (roughly .40 to .80 percent a year) without direct costs to the State. The Infrastructure Panel recognizes, however, that there could be an effect on the State's bond rating if total State borrowing for this program exceeded $500 million. Some effect may be justified if the funds are used wisely to shape development and spur economic growth.

Pros: Allowing CIFA to issue GO bonds and loan their proceeds to local jurisdictions would result in little or no costs, provided the Bank charges borrowers at least the rate as it borrowed. Administrative costs could be covered by levying a minor surcharge. Borrowing at the State rate would reduce local costs even more than using VLF backed bonds: by up to 13% or $80,000 to $160,000 over the life of a 20-year, $1 million loan.

Cons: Direct grants would result in a firsthand cost to the State, the benefits of which would be offset by an increased number of projects. Allowing CIFA to issue GO bonds would require voter approval. This would be risky because bond issues success rate has been abysmal for the past several years. Those that have been successful have generally been much more targeted than an infrastructure bank bond issue could be. Also, the additional State bonds would increase the total indebtedness of the State even though backed by locals' revenues.

If appropriate and accepted criteria were enforced to protect the revenue stream from funded infrastructure, this program could also be funded through State revenue bonds.

(4) CIFA buy-down of locals' interest rates. The State should also be authorized to administer a pooling program, as in option (2) above, and also buy down interest rates for local jurisdictions meeting State requirements. That is, instead of directly ***lending*** to local governments and districts as in option (3), CIFA could offer to pay down .40 to .80 percent of locals' borrowing which is what local governments could save if they were to borrow at the State interest rate.

Pros: Administratively simpler than establishing a lending bank.

Cons: The State would have to annually appropriate roughly .50% of the accumulated value of the locals' bonds to cover the interest subsidy. For example, if $2 billion in bonds were outstanding, the State would be responsible for roughly $10 million in interest subsidy. Unlike the previous option which "passes through" the State's borrowing rate, this option would cost the State money.

State guarantee ("moral obligation" or "full faith and credit") of locals' bonds.

An immediately less expensive but potentially riskier financing mechanism would be for CIFA to offer to guarantee the payments of infrastructure bonds of those local jurisdictions that meet growth guidelines. Locals would still issue bonds in private capital markets, but at interest costs that are only .25 or .35% (instead of .40 to .80%) above the State rate. On a 20-year, $1 million local bond, this would constitute a cumulative savings of $30,000 to $90,000, or roughly 3 to 8% of the local's borrowing costs.

The guarantee itself could be either a "moral obligation" or a "full faith and credit" guarantee. Under the first type of guarantee, CIFA payments on any defaulted bonds would be subject to annual appropriation. A "full faith and credit" guarantee, while it could save locals another .20 to .30% a year, might face constitutional challenges. (Article XVI, Sec. 6 states that "The Legislature shall have no power to give or to lend... the credit of the State... for the payment of liabilities of any individual, association, municipal or other corporation whatever....") The "moral obligation," by contrast, does not commit the State's credit, so its credit-enhancing effects are partly diluted (by about 1/4 to 1/3). The "moral obligation" guarantee provides some insulation for the State from the default risk of local bond issuers (it may, however, be that the *political* obligation assumed will probably be the same regardless of the legal nature of the State's guarantee).[1]

Reducing local borrowing costs by 1/4 to 1/2% a year may seem quite modest, but representatives from both the League of Cities and CSAC believe that credit enhancement by the State would generate substantial new volume. The total amount of new infrastructure investment that could be stimulated is highly speculative, but could be in the tens of millions of dollars a year. It is possible, however, that the principal effect would be to shift investments from other types to this advantaged category, as opposed to generating new investment.

Pros: Virtually no short-term fiscal impact. The State would not directly subsidize borrowing, but through its guarantee it would reduce the risk to bondholders.

Cons: As the federal savings and loan bailout illustrates, the actual financial exposure from government loan guarantees is difficult to measure and predict. The least creditworthy entities would be the ones most likely to avail themselves of a guarantee program, and possibly the most likely to walk away from fiscal obligations if the State were a fallback. Furthermore, the prospect of a State bailout—which would probably be politically if not legally imperative—could loosen the fiscal discipline of some jurisdictions. Any program that would, even remotely, confer state liability onto locals' bond defaults risks exposing the State to open-ended financial risk. Despite the protections offered by the looser "moral obligation" guarantee and the borrower's

[1] If further protection were desired, it could be obtained by making the State guarantee contingent on the bond issuers' pledge of motor vehicle license fees (VLF), discussed above, to secure their credit. The VLF pledge provides additional security to lenders and thus reduces default risk to the State. Such a pledge would not, however, provide any further enhancement of the locals' credit beyond that offered by the State's guarantee: a typical VLF financing is rated 1-2 bond rating categories below the State's own rating, which is the same rating as a local issue guaranteed by a State "moral obligation." Local jurisdictions which were willing to pledge these revenues to repayment of their bonds would get no further credit enhancement out of a State guarantee, and therefore would have no incentive to meet State growth management or project guidelines.

A requirement to pledge VLF revenues might offer the State some financial protection, but it would completely dilute the incentive value of the "moral obligation" guarantee and undercut participation in the Bank. Therefore, the infrastructure panel recommends against making a VLF pledge a required part of this option.

pledge of VLF fees, a strong screening committee would be needed to review applicants' creditworthiness.

The potential risk in this mechanism, and the lack of consensus among panel members, indicate that it warrants further study and comment before any affirmative recommendation is made.

Recommendation

Legislation should be introduced empowering an expanded CIFA to implement each of the first four options, subject to annual appropriation. Authorization should be obtained now, even if funds currently available limit CIFA's new powers to the less expensive group. Consideration should be given to placing a bond issue on the ballot in the next election so that resources are available when fiscal conditions permit (see discussion below).

FUNDING

Funding sources described here for the proposed CIFA are those that could logically linked to infrastructure renewal and strategic growth.

(a) CIFA could charge an annual **"membership fee"** to participating entities. As long as the fee were substantially less than savings (*e.g.*, a .10% fee diluting .50% to .70% savings), local entities would still have an incentive to participate.

(b) **Public and private pension funds and State employees' deferred compensation** funds could be encouraged to invest in CIFA. A State tax deduction for the contribution and an exemption for the income (both of which represent de facto tax expenditures) would make CIFA an attractive investment.

(c) **Borrowing.** The State currently has roughly $9.5 billion in general obligation borrowing authority passed in previous bond acts. These funds are all earmarked for specific types of projects, but the Department of Finance should review them to establish if any of their guidelines could be interpreted to allow these funds to be used for local infrastructure, in accord with voluntary State growth guidelines.

In addition, however, California's infrastructure needs are such, and the role of infrastructure as a catalyst for economic growth and jobs is so significant, that the Panel believes additional bonded indebtedness may be justified in order to help the State develop in a sound manner consistent with growth guidelines. However, the current fiscal and economic conditions in California are so bleak that borrowing through new, or existing authorized but unissued bonds, could in the short run impede the State's bond ratings. Borrowing that reduced the rating by one category would add roughly $2 million in annual debt service per billion dollars of new bonds sold. However, such borrowing may well be a sound means of creating the conditions for future economic growth (and tax revenues). For example, if infrastructure renewal added one-tenth of one percent to the annual growth in personal income, it would generate $20 million in extra personal income tax revenues per year. Therefore, the use of State bond funds should be focussed on projects that will unambiguously generate economic growth, a criterion that fits most well-chosen infrastructure projects.

The panel rejects two other funding options:

(d) Some commentators have suggested a **real estate transfer tax or an additional gasoline tax** as funding sources. The panel does not believe additional taxes are advisable at this time, and notes constitutional problems (from Prop. 62) with a real estate transfer tax.

(e) Some fraction of **developer fees** could go to CIFA. Fees will amount to roughly $5 billion annually when construction returns to a more "normal" condition (250,000 housing units per year versus less than 200,000 this year). This might have to be collected as a direct State fee, because of the constitutional prohibition on State levies of local taxes. One liability of this option is that it would be a further impact on the real estate industry and add to housing and development costs.

One way or another, those responsible for determining the State's spending priorities — the Legislature and the Governor — should decide where additional infrastructure money should come from, and, if through a redirection of existing resources, from whom.

CONCLUSION

An expanded CIFA should be established, with all of the powers outlined above. It should assist in financing for jurisdictions that follow State strategic growth guidelines, and for rural jurisdictions whose development is constrained by inadequate infrastructure. Even the less expensive powers are a small but useful step to help communities deficient in infrastructure. Interest on the part of local entities seems to be considerable, based on the comments of their association representatives, so even this modest step could make a visible difference. In later stages the program can be expanded.

An expanded CIFA can be a useful symbol, demonstrating that the Wilson Administration's commitment to reverse two decades of neglect and is eager to make California's economy the most modern in the world. Lending will concentrate where it will get the highest return: the "other California" that did not benefit from the 1980s boom, and which will be the locus of much of the State's future growth; and those communities serious about managing growth, revitalizing the economy, and making the State a better place to live.

REPORT OF THE WORKING GROUP ON REGIONAL COOPERATION AND COORDINATION

Governor's Growth Management Council

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INTRODUCTION

The Growth Management Council has examined the current plethora of existing regional or county authorities, and single-subject agencies, and concluded that local government and the State would be better served by a higher degree of coordination and some degree of consolidation.

The Council has concluded that the most likely and ready vehicle for such coordination and consolidation are Councils of Government, or "COGs". The Council recommends that new, reformed Councils of Governments ("new COGs") succeed to the planning functions of existing councils of governments and absorb a number of other regional and subregional planning responsibilities, such as regional coordination of Congestion Management Plans; Regional Transportation Planning Agency (RTPA) duties; regional solid waste and low level hazardous waste planning; regional "fair share" housing; regional siting of locally undesirable land uses (LULUs); and regional mitigation banking; and other matters appropriate to a role as a regional forum and clearinghouse. Other current planning functions

should also be reviewed for potential consolidation, such as those that may be performed by county Local Agency Formation Commissions (LAFCOs) or Airport Land Use Commissions (ALUCs).

Consolidating regional planning functions in new regional planning agencies shaped by existing Councils of Governments has several advantages. The COGs have existing staff and structure already formed on a regional basis, and the members of the councils have familiar working relationships. The councils are perceived as "bottoms-up" organizations because they are formed by local governments, not the State. There would be no additional layer of government, but rather improved coordination and some consolidation of existing entities.

In addition, the Growth Management Council is recommending the implementation of a five-year Integrated State Plan to coordinate and integrate specified planning elements, such as a State Housing Plan, a unified Transportation Plan, and a Resource Protection and Conservation Plan. This plan should require consistency from all State, regional and local bodies. To this end, the new COGs would be responsible for coordination of regional planning with the Integrated State Plan.

The new COGs would *not* be "regional government" because they would remain primarily planning, coordination, and mediation bodies without the traditional powers of general government: they would have no taxing authority, no general land use powers, and few if any operational duties.

There are both advantages and disadvantages to the regional structure of COGs. The structure is flexible, as it is self-determined and not legislatively established. This flexibility allows the organizations to adapt to the needs of the region as necessary. On the other hand, participation in these organizations has been voluntary, and not all local governments have accepted or are content with COG membership or boundaries. The existing COGs have no real enforcement powers. Funding is based upon federal and State grants and membership fees. Boundaries do not always reflect regional concerns, and it is difficult to develop a regional political constituency for actions which may be necessary.

The corollary of enhancing the current role of COGs, or using them for new purposes, is that their structure, procedures, balance, and even boundaries must be subject to new review, probably through a public process. Care must be taken that they remain "bottoms-up" organizations responsive to local governments, *and* that any agency role on behalf of the State be accompanied by oversight. COGs should be a bridge between state and local governments, and not free-standing entities in themselves. Further, in the State's larger, multi-county urban areas, some mechanism must be found to make new COGs responsive at the county level, possibly through subregions.

Each of the functions or bodies suggested for coordination or consolidation is now examined, starting with the existing Councils of Government.

A. EXISTING FUNCTIONS

1. Councils of Governments (COGs)

Purpose

Councils of Governments, or "COGs," are voluntary agencies formed as joint powers agreements by cities and counties. COGs perform planning duties on issues that transcend city limits and in some instances, county boundaries. There are currently 19 active COGs

(three are inactive) in California which encompass 44 of the 58 counties and more than 440 cities. The largest COGs are SCAG, with 15 million people in its 6-county Southern California area; ABAG, with over 6 million in the 9-county Bay Area; the single-county SANDAG in San Diego with 2.5 million people; and the Sacramento area SACOG, with 1.7 million people in 2 counties and in portions of two others.

Although the specific duties and levels of activity may vary between the 19 different COGs, there are a few common purposes for which these councils were formed. In recent years, the regional role of COGs has been to serve as a forum in which local governments can prepare area-wide plans, deal with regional issues, set policy, strengthen the effectiveness of local government, provide technical assistance to member jurisdictions, and develop and maintain a regional database. Traditionally, these efforts have been primarily focused in the areas of transportation and housing. COGs also serve as the area-wide clearing house for reviewing and assuring consistency between federal and State plans, projects, grants, and carry out various federal and State mandates.

Governance

COGs are currently made up of city council members and members of the county boards of supervisors. Membership in a COG is voluntary as is compliance with COG directives and recommendations. COGs are governed by a board of directors usually appointed by the county board(s) of supervisors and the city councils within the geographic boundary of the COG.

Creation mechanism

Neither State nor federal law requires the establishment of Councils of Governments. Most COGs are formed by joint powers agreements which were authorized in 1949, under the provisions of the Joint Exercise of Powers Act. The local formation of regional planning bodies is also authorized by several State statues: the District Planning Law, the Regional Planning District Law, and the Area Planning Law; however, these authorities are rarely, if ever, used.

Although Councils of Governments have power under State statute to formulate policies, their only enforcement role is a limited one derived from the federal government: COGs are certified by the federal Office of Management and Budget to act as regional clearing houses in reviewing federal (A-95) grant applications by local agencies to determine whether the applications conform to regional plans.

In many instances, COGs also are designated under other regional roles, varying from region to region: Metropolitan Planning Organizations (MPOs) under federal surface transportation law; Regional Transportation Planning Agencies (RTPs) under State law; and Lead Planning Organizations (LPOs) under federal clean air legislation.

Boundaries

COGs are formed by joint powers agreements, voluntary action of interested governments within a region. The boundaries are determined by the city councils and county boards of supervisors. There is no regulation or general guideline on fringe area COG boundaries. However, if a COG assumes federal duties, the boundaries may not divide a defined metropolitan area and the counties of that metropolitan area. For the most part, COGs are limited to the borders of a single county. However, there are seven multi-county COGs, covering most of the large urban areas in California. The Southern California Association of Governments is the largest COG in the State and covers six counties and 182 cities. A map of current COG boundaries is attached.

Existing funding sources

Under current law, COGs have no taxing or fiscal authority. The sources of funding for COGs differ, but most often the COGs rely on revenues from federal, State, and local grants; State and local contracts; private contracts or fees for services; annual dues from member governments; State sales tax; charges for publications; and fees for technical assistance and services to member organizations.

COGs are currently funded from a variety of sources depending upon their particular responsibilities. These include State and federal transportation funds when the COG is a Regional Transportation Planning Agency. Many COGs charge for research and other marketable products such as demographic projections or traffic models. Also, many COGs actively pursue public and private grant money for special studies. In addition, COGs may be funded by dues levied on each member city and county.

Just as COG revenue sources vary, so do their expenditures. The activities of current COGs are based upon the needs of the specific region. However, spending is generally directed toward: transportation planning, housing "fair share" planning, technical assistance to local governments, regional growth planning and monitoring, federal clearinghouse, air quality planning, Airport Land Use Commission coordination, solid waste planning, economic development, maintenance of regional databases, solid waste management planning, and area agencies on aging.

The budgets of individual COGs vary from year to year based on the amount of federal, State and local funds available. There are vast differences between the budgets of the separate organizations due to their different size and the different functions they perform. For example, the San Diego Association of Governments (SANDAG) had a 1992 projected budget of $8.2 million; the Association of Bay Area Governments estimated its budget at $6.5 million; and the Southern California Association of Governments' 1991 budget was roughly $11 million.

Recommendation

COGs may be empowered to certify local comprehensive plans for consistency with State requirements. This would increase COG importance as regionally based planning agencies. Provisions should be made to ensure that COGs are governed in a representative manner that is fair to all their members. The State should allow COGs to choose their own method of governance, whether providing proportional or jurisdictional representation, or a combination of both, but should also establish a default method that would become effective in the event that the COG members cannot agree by a date certain.

Legislation should grant the new COGs the funding that otherwise would have gone to the agencies which they supersede, or which is earmarked for the planning functions, such as congestion management and integrated waste disposal, which are transferred to the new COGs. By requiring local membership and at least partial COG funding through mandatory dues, this may create a State mandated program for which the State would be required to reimburse local governments' costs.

2. Transportation

a. Regional Transportation Planning Agencies (RTPAs)

Purpose

RTPAs are responsible for the preparation and adoption of regional transportation plans (RTPs) and the regional transportation improvement program (RTIP) to establish a coordinated and balanced regional transportation system, including mass transportation, highway, railroad, maritime, and aviation facilities and services. During their work, RTPAs must consider and incorporate the transportation plans of cities, counties, districts private organizations, and State and federal agencies. Finally, RTPAs ensure that RTPs and RTIPs are consistent with the Air Quality Plan for their area.

Governance

RTPAs may be Local Transportation Commissions (mostly in rural counties), Councils of Governments (such as the Southern California Association of Governments and the Sacramento Area Council of Governments), statutorily created agencies (the Metropolitan Transportation Commission in the Bay Area, and the Tahoe Regional Planning Agency) or Metropolitan Planning Organizations (MPOs), and may therefore be governed in a variety of ways. There are currently 43 RTPAs in the State. Of those 18 are COGs, 23 are LTCs, and two (MTC and TRPA) are statutorily created agencies. 14 of the RTPAs are also MPOs.

Creation mechanism

RTPAs were established by the State in 1972.

Boundaries

RTPA boundaries are designated by the Secretary of Business, Transportation, and Housing.

Existing funding sources

Depending upon the functions and composition of the specific RTPA (e.g., if it is statutorily created, an MPO, multi-county, rural, or urban), an RTPA can receive funding from a variety of sources, including Federal Urban Mass Transportation and Federal Highway funds, State Transportation Planning and Development and Transportation Development Account funds, and funds from local sales taxes and local agencies.

Generally, in preparing its region's RTIP and RTP, the RTPAs will use State Transportation Planning and Development and Transportation Development Account funds, and other funds which may be available for related work. However, if it has other responsibilities and resources, additional funding and programs may be used as well. For example, if an RTPA is also an MPO, which MTC, SCAG, SANDAG, or the Shasta County RTPA are, it will use some of its federal funding received as an MPO to complete its regional plans.

Recommendation

To coordinate transportation planning with other land use, environmental, and housing plans, the functions, duties, technical staffs, and funding of Regional Transportation Planning Agencies (RTPAs) should be transferred to the new Councils of Governments (COGs).

Benefits of consolidation

Transportation planning is fundamental to all other land use decisions. To produce better coordinated and more compatible regional plans, all planning must be integrated and not done in isolation. While single-issue agencies may have an understanding of their issue, they may fail to consider related issues.

With consolidation of RTPAs in COGs, COGs would assume the responsibility of reviewing congestion management plans (CMPs) for consistency with, and incorporation into, the regional transportation improvement plan. COG review of CMPs may provide better consistency with regional or State clean air or transportation strategies.

Further, consolidation should also lessen competition for funding among single interest agencies. Adding the functions of RTPAs to a COG would help ensure that the region's fiscal and environmental resources are being put to the best use. Finally, each single agency has similar overhead costs. Including RTPAs in a COG would cut down on staff and office costs.

Problems with consolidation

Attempts to include RTPAs in COGs could raise problems as well. Agencies that currently act as RTPAs many oppose efforts to take these planning powers away. Although a COG may currently serve as an RTPA, RTPAs and COGS do not necessarily have contiguous boundaries. However, because the Secretary of Business, Transportation, and Housing designates RTPA boundaries, the Secretary could ensure that RTPA boundaries are consistent with COG boundaries. Also, because an RTPA is often another agency or has other functions (such as a Local Transportation Commission or Metropolitan Planning Organization), including the RTPA in a COG, while leaving the rest of the existing agency with other responsibilities, could hinder regional transportation and air quality planning. This should be avoided by transferring related functions as well.

b. Congestion Management Agencies

Purpose

A congestion management agency is charged with adopting a countywide congestion management program which addresses traffic congestion in a cooperative manner with other local agencies, including appropriate land use, transportation, and air quality entities. A CMP should include a definition of the county's transportation system; a transit standards element; an element for trip reduction; a program for analyzing the impacts of land use decisions; and a seven-year capital improvement program. The CMA is also required to develop a traffic data base for use in a countywide model to monitor the implementation of CMP elements. Upon adopting its CMP, a CMA is required to forward the CMP to the appropriate regional transportation planning agency. The regional agency is charged with reviewing the CMP for consistency with the RTIP. Consistent CMPs are included in the RTIP. For CMPs which are determined to be inconsistent with the RTIP, the regional agency may exclude from the RTIP, any projects in the inconsistent CMP.

Governance

A CMA can be either the county's existing transportation commission or transportation authority, an existing public agency within the county, such as a public works department or the county board of supervisors, the councils of government in which the county is a member, or a newly created agency. Designating an existing agency, a COG, or creating a new agency requires approval from the county and a majority of the cities within that county.

Creation mechanism

CMAs are created by State statute. In 1989, a legislative package was enacted to provide comprehensive reforms to transportation practices in California, and brought before the voters several measures to increase the fuel tax, and issue bonds for transportation funding.

The voters approved these measures in June 1990. However, to receive increases in transportation funding, certain counties are required to establish CMAs which are charged with adopting CMPs. Participating counties that do not conform to CMP statutes do not receive their share of the revenues resulting from the increase in fuel taxes.

Boundaries

Currently, every county which contains an urbanized area (areas with population over 50,000) is required to create a CMA and adopt a CMP. The CMP must include every city within the county, and thus, each CMA boundary is equal to its county of jurisdiction, including all entities within the county. Currently, 32 counties are required to implement CMPs: Alameda, Butte, Contra Costa, Fresno, Kern, Los Angeles, Marin, Merced, Monterey, Napa, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Solano, Sonoma, Stanislaus, Sutter, Tulare, Ventura, Yolo, and Yuba. Of these counties, fifteen designate existing county transportation agencies to prepare the CMPs, ten utilize the region's COGs, four use their county public works departments, and three created new agencies.

Existing funding sources

The statutes which require CMAs and CMPs do not identify specific dedicated funding sources. Therefore, local agencies need to consider locally available funding mechanisms. These may include general funds, local gas tax subventions, additional sales tax funds from the increased gas tax, vehicle registration fees, and the Transportation Development Act. Other non-local planning and programming funds may be available to assist in funding, including State Subvention Planning Funds, FHWA Planning Funds, and Air Quality Plan Funds. Currently, the county of jurisdiction forwards revenues from these funding sources to the CMA.

Recommendation

The duties and responsibilities of congestion management agencies (CMAs) should remain at the county level. Existing procedures for preparing congestion management programs (CMPs) and reviewing them for regional consistency adequately address traffic congestion issues.

Benefits of coordination through COGs

Currently, regional transportation planning agencies review CMPs for consistency with, and incorporation into, the regional transportation improvement plan (RTIP). If the regional agency finds a CMP to be inconsistent with the RTIP, it may exclude any of the projects in the CMP from the regional plan. Since the Growth Management Council is recommending that the newly enhanced councils of governments (COGs) assume the duties of regional transportation planning agencies and the coordination of other regional issues, COG review of CMPs may provide better consistency with regional or State clean air or transportation strategies.

Problems with coordination through COGs

Each county's CMA is the agency which is most aware of its county's congestion management needs and best suited to prepare a county CMP. Therefore, enhancing COG responsibilities could be perceived by a county as a loss of local control over its own transportation planning, as well as other local issues. However, the recommendation in this area is that COGs assume the duties of regional transportation planning agencies, and thus, review of CMPs for regional consistency, not that the existing CMP procedure be revised. It is

important to make it clear to local agencies that the existing procedures, both at the local and regional levels are not being enhanced.

c. Metropolitan Planning Organizations (MPOs)

Purpose

MPOs serve as a forum for cooperative transportation decision making at the regional level. Each MPO's responsibilities include preparing a transportation plan describing policies, strategies, and facilities or changes in facilities proposed, and a transportation improvement program (TIP) which is a staged multi-year program of transportation improvement projects. MPOs are also required to conform transportation plans and transportation improvement projects to federal clean air standards.

MPOs are designated to carry out federal transportation planning requirements, while Regional Transportation Agencies (RTPAs) carry out State transportation requirements.

Governance

MPO is a designation of an existing agency, rather than a new or separate agency. Many existing MPOs are in fact COGs, but not all. In the Bay Area, for example, the Metropolitan Transportation Commission (MTC), a seperate statutorily created body, serves as the MPO. Thus, MPOs do not have a prescribed governing process. COGs are governed by local elected officials and the MTC is governed by a legislatively prescribed board of directors.

Creation mechanism

MPOs were created by the Federal Government for the implementation of the Federal Highway Administration and the Urban Mass Transportation Administration joint highway and planning regulations. However, MPOs are established by local governments and must request an "MPO designation" from the Governor. Thus, the Governor designates all MPOs.

Boundaries

The boundaries of MPOs are decided on the local level with the advice of the Federal Highway Administration. Final approval of the proposed boundaries is granted by the Governor.

Existing funding sources

MPOs receive one percent of the funds the State receives from the Federal Highway Trust Fund. CalTrans, in conjunction with all of the State's MPOs, decide how the funds will be allocated to the respective MPOs, usually by population. In addition, MPOs may receive additional State subventions from the State Highway Account if allocated in the annual budget.

Recommendation

To improve regional planning, the Governor should uniformly designate the new Councils of Government (COGs) as the Metropolitan Planning Organizations (MPOs).

Benefits of consolidation

Designating COGs as MPOs would help ensure that other plans, such as air quality, housing, and congestion management, are consistent with transportation planning. This would also eliminate inconsistent data that commonly exist between neighboring jurisdictions within a metropolitan area.

Problems with consolidation

Small jurisdictions - ones not currently included in an MPO or others in an MPO smaller

than a new COG - may not wish to relinquish planning responsibilities or join a regional planning agency if their decision-making role would be diminished. In addition, some counties might prefer a single-county MPO.

3. Special Districts

Purpose

Special districts are individual local governmental agencies formed to provide local services. Typically, special districts are formed by local residents and landowners who want new services or higher levels of existing services, but the current city and county tax base is inadequate to fund those services. Fire districts, irrigation districts, and park districts are all examples of special districts. Some special districts serve a single purpose, such as flood control, while others address a number of purposes, like community service districts, which can provide as many as 15 different services.

Governance

Special districts are formed by a local agency formation commission (LAFCO), following review of an application which is usually filed by registered voters, a city council, or county board of supervisors. Special districts are autonomous government entities and are accountable only to the voters or land owners they serve.

Special districts can be dependent or independent agencies. Dependent districts are governed by existing legislative bodies, such as a city council or county board of supervisors. An independent district is governed by a board of directors that is elected by the district's voters. A few independent districts are governed by a board of directors that has been appointed by a city council or board of supervisors. Many independent districts employ a professional manager to provide elected members with technical assistance.

Creation mechanism

Special districts are not State, county, or city government. They are limited special purpose local governments which operate under a "principal act" or a "special act." A "principal act" is a statute which applies to those special districts that provide similar services. For example, the Fire Protection Law of 1987 governs all of California's fire districts. A "special act" is used for creating individual special districts that do not meet the criteria of any principal act. A "special act" is tailored to fit the unique needs of a specific area.

Boundaries

Proponents of a special district are currently required to submit an application to the affected LAFCO. That application must include the proposed district's boundaries, services to be provided, and financing options. Upon review and following a noticed public hearing, the LAFCO can either approve, deny, or modify any part of the proposal, including the boundaries. Land may be annexed or deleted from a special district through another application process.

Existing funding sources

Most special districts generate funds from fees and property tax revenues. "Enterprise" districts are funded through collecting fees from those residents who benefit directly from the services provided. For example, water districts charge water rates to their customers only. Non-enterprise districts do not charge user fees because their services benefit the entire community. Police and fire protection districts are a good example of non-enterprise districts that generally cannot be funded through user fees. Non-enterprise districts usually rely on property tax revenues for their funding.

Other funding sources currently available to special districts include general obligation bonds, revenue bonds, and allocations from the Special District Augmentation Fund (SDAF).

Special District Augmentation Fund

The SDAF was created following the passage of Proposition 13 (AB 8), and funded by contributions from special districts that were in existence prior to the passage of Proposition 13. Under current law, any district which received State assistance following the enactment of Proposition 13 is required to contribute a portion of its property tax revenues to the SDAF in proportion to the amount of State aid received. There is a separate SDAF in each county. County boards of supervisors are required to annually allocate the SDAF back to those districts, but boards have a great deal of discretion in how those revenues are actually allocated. Existing law provides that districts created after 1978 do not contribute to the SDAF, but rather, are allocated the actual property tax revenues generated within their jurisdictions. This is true for consolidated districts as well (*American River Fire Protection District v. Sacramento County Board of Supervisors,* 211 Cal.App.3d 1076).

Because of the number of districts which have consolidated or been eliminated in recent years, and the dwindling amount of monies available in SDAFs, it is becoming increasingly popular for counties to seek legislative approval to eliminate SDAFs in favor of a tax-sharing arrangements. To date, Sacramento, Marin, Monterey, and Santa Cruz Counties have been granted legislative authority to eliminate their SDAFs.

Recommendation

New COGs should have the authority to approve the creation and consolidation of special districts and tax-sharing arrangements. Because one purpose of this recommendation is to further facilitate the consolidation and elimination of unnecessary or duplicative special districts, this recommendation includes complete elimination of the SDAF, in favor of tax-sharing arrangements approved by the new COGs.

Benefits of consolidation

There are currently 3,440 special districts in California. Since special districts are formed by LAFCOs, the consolidation of LAFCO responsibilities into new COGs would have a significant effect on special district formation. Currently, many special districts provide the same services as cities and counties. A regional body could be useful for eliminating competition and conflict which can occur between overlapping jurisdictions. Further, a COG could minimize adverse impacts that the current proliferation of special districts has on regional planning. New COGs could oversee the consolidation of existing special districts, and well as the creation of any new districts, in an effort to reduce duplicative administrative efforts and ensure uniform service within regions.

Problems with consolidation

Since COGs are larger regional bodies than LAFCOs, they could be perceived as being too far removed from a special district to address its local issues. Special districts are designed to tailor services to local citizen demand, and if COGs are authorized to approve the creation and consolidation of special districts, local control and responsiveness could be lost. This problem could be addressed by requiring the new COGs to examine and incorporate existing local structures into their decision making processes.

4. Local Agency Formation Commissions (LAFCOs)

Existing law

The Cortese-Knox Governmental Reorganization Act is the framework within which proposed city annexations, incorporations, consolidations, and special district formations are considered. This law establishes a Local Agency Formation Commission (LAFCO) in each county, empowering it to review, approve or deny boundary changes and incorporations for cities, counties, and special districts. The act mandates specific factors which the LAFCO must address when considering annexation proposals. The LAFCO in turn establishes the ground rules by which the affected city will process the annexation.

Governance

Existing LAFCOs are made up of two elected officials from the county, two from local cities, and one member of the general public. LAFCOs also have the option of electing a representative from special districts. Although most LAFCOs include special districts, only a small percentage chose to have special district representation.

Creation mechanism

Each LAFCO operates independently from the State. However, the LAFCO is a creature of State law and is expected to act within a set of State-mandated parameters encouraging "planned, well-ordered, efficient urban development patterns," the preservation of open-space lands, and the discouragement of urban sprawl.

Boundaries

Existing law provides for the existence of a LAFCO in every county of the State. Existing law also provides that the boundaries or jurisdiction of each commission be limited to the boundaries of the county it serves.

Existing funding sources

Generally, LAFCOs charge a fee for processing annexations, boundary changes, and incorporation requests. These fees are incurred by those parties requesting the change (a city, county, or private individuals).

The fees collected are primarily used for administrative costs that are incurred in maintaining the commission. The staff is responsible for doing research on individual requests, which may include, fiscal analysis, current status and feasibility of special districts, and decisions regarding taxing authorities and responsibilities. If LAFCOs were to merge with COGs these services would still need to be promised. There are a total of 57 commissions; each county has its own, with the exception of San Francisco, which is a unitary city and county and need not consider boundary changes. Although most of the commissions are supported through fee charges, some LAFCOs are subsidized through their own county.

Recommendation

LAFCO duties should be considered for potential future transfer to the new COGs. Statewide procedures and performance standards, including fiscal adjustments to minimize inequities to counties and cities, should be established for boundary changes within spheres of influence designated around cities. Annexations within those areas would be subject to administration by the city.

Benefits of consolidation

Consolidating LAFCO authority with new COGs, and making as much as possible of that authority self-executing, will serve to discourage planning fragmentation which may follow uncoordinated or inconsistent local boundary changes. Furthermore, since most of LAFCO's

decisions and responsibilities are primarily regional in nature, this consolidation would eliminate an unnecessary agency, and in multi-county regions would eliminate several of them. There is no compelling reason, for example, for 9 separate LAFCOs in the Bay Area.

Problems with consolidation

No existing LAFCO is larger than a single county. Consolidating LAFCO duties in a multi-county regional body will distance the decision makers from the governed, but it will permit decisions to be made in a regional context.

5. Airport Land Use Commissions (ALUCs)

Purpose

The primary purpose of an ALUC is to formulate a comprehensive land use plan to provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, including a long range master plan that reflects the anticipated growth of the airport for the next 20 years.

Existing law provides that until an ALUC adopts its final plan, every city or county within its jurisdiction is required to submit all requests for actions, regulations or permits to the ALUC for approval. Existing law assumes that any action taken by an ALUC will be consistent with the plan being prepared, and provides immunity from litigation over development actions until the plan is required to be completed, if "substantial progress has been made toward completion of the plan." Cities and counties are authorized to overrule an ALUC decision by a 2/3 vote of their governing bodies, but such an action renders the airport operator immune from liability for damages to property or personal injury.

Governance

Each commission is comprised of seven members: two representing cities within the county, appointed by the city selection committee; two representing the county, appointed by the board of supervisors; two aviation experts, appointed by a selection committee comprised of the managers of all the public airports within the county; and one general public member, appointed by the other six members. An exception to this provision authorizes any county with a population in excess of four million (Los Angeles County) to utilize its county regional planning commission for the purposes of airport land use planning. To date, all but six counties have created ALUCs. Alpine, Modoc, and San Francisco are exempt, because they have no public airports within their jurisdictions. Madera, Trinity, and Santa Cruz have simply not complied with the law.

Creation mechanism

The Airport Land Use Planning Law was established in the California Public Utilities Code in 1970 (Ch. 1182). Under existing provisions of the Airport Land Use Planning Law, every county with an airport that is served by a scheduled airline, or any county with an airport operated for the benefit of the public, is required to establish an airport land use commission (ALUC).

Boundaries

Planning boundaries are established by each ALUC after a hearing and consultation with involved or affected agencies.

Funding

Under current law, local agencies are authorized to levy fees for the costs of providing certain services. Existing law also authorizes an ALUC to establish and levy fees for

reviewing and processing proposals and for providing copies of land use plans, provided those fees do not exceed the cost of providing the service. Under current law, any ALUC which has not adopted a majority of the required plan(s) by June 30, 1991, is prohibited from levying these fees until the plan(s) have been adopted. That deadline was recently extended (until June 30, 1992) for those counties that have completed at least half their plans (SB 582, Ch. 140, Stat. 1991).

The Commission on State Mandates has determined that the planning costs for public use airports are reimbursable. However, that authorization was subsequently suspended during the 1990-91 budget negotiations (SB 1333, Ch. 459) and the State did not provide any money for this purpose. As such, the costs of actually preparing the plan has become the direct responsibility of each affected county.

Staff responsibilities

Existing law does not specify the who shall perform the staffing functions for an ALUC. In most jurisdictions, county or COG employees are fulfilling those responsibilities. In other, larger, jurisdictions, ALUCs have hired separate employees to fulfill their responsibilities. Existing law requires the Department of Transportation to assist in the training and development of any ALUC staff, thus transferring employees because of a perceived expertise would not necessarily be required.

Recommendation

The duties of Airport Land Use Commissions should be reviewed for potential future transfer to the new COGs.

Benefits of consolidation

Air transportation is a regional issue. Consolidation would facilitate compatible land uses within each region and within the area surrounding each airport. Consolidation would further benefit the new COG in that ALUCs are already required to address inter-jurisdictional issues. Consolidation would eliminate separate agencies, particularly in multi-county regions. There is, for example, no reason there should be five ALUCs in the Southern California area, which to a great degree effectively operates as one air transport region.

Problems with consolidation

Although airports are regional facilities, shifting authority controlling airport land use to the new COG would distance decision makers from the governed. In addition, because local agencies are required to submit all applications to the ALUC prior to the adoption of a final plan, ALUCs do have some permitting authority. This authority would be consistent with the authority proposed for the new COG if COGs, like ALUCs, were given *specialized* land use authority. This is particularly important because of the regional importance of airports.

Another problem that should be considered is that folding the responsibility of ALUCs into a new COG would most likely result in no representation from the aviation community. While the same can be said for any other agency whose responsibilities are assumed by the new COG, some consideration should be given to whether the health and safety issues surrounding airports warrant the continued involvement of those "experts." This could be resolved by creating an advisory panel.

Another objection might concern the fact that the law imposing a plan adoption deadline on ALUCs has only recently been enacted, and most counties are currently in the process of completing their comprehensive plans. As such, some thought should be given to the timing of this proposal, and whether a disruption in the current adoption process is necessary or should become effective only after the June 30, 1992 deadline.

Finally, the existing law governing ALUCs has been opposed by several cities that were concerned that this law inappropriately took away what they believed was their land use authority and moved it to the county level. Cities will undoubtedly continue to oppose transferring that authority to the regional level, and will probably be joined by counties who are also concerned with any entity interfering with their ability to make land use decisions.

B. NEW FUNCTIONS

1. Locally Undesirable Land Uses (LULUs)

"Locally undesirable land uses" or LULUs refer to those land uses or facilities that are generally conceded as necessary but that nobody wants in his or her community. LULUs may include power plants, sewage treatment facilities, power lines, dams, rail lines, junkyards, cemeteries, landfills, etc.

The siting of LULUs is one of the most difficult tasks facing California. The siting and permitting processes continue to be costly and controversial. The public, moreover, feels increasingly free to challenge siting decisions. The resulting intransigent and strongly polarized public debate creates delays, which often result in the scuttling of projects due to a loss of cost-effectiveness or lack of political will. Community resistance, accompanied now by the seemingly inevitable lawsuits, produces a stalemate that government leaders often cannot overcome.

One way to diminish siting problems is to address the need for a particular class of LULU necessary. The League of California Cities, in its publication *Combining Self Interest and the Public Good: A Win-Win Solution*, described a number of market-based solutions to dealing with city services. For example, instead of complaining about not enough landfill space in Seattle, the city instituted a "pay as you throw" method of trash billing where the more cans put out for pick-up, the bigger the trash bill. The result is that pick-ups went from an average of 3.5 cans per household down to one, and the need for new landfills was diminished. These can be classified as "microeconomic" solutions to the LULU problem because they focus on the economic choices of private individuals and businesses.

Not all LULUs are susceptible to such treatment, however. Other proposals may help address siting decisions in these cases.

Alternatives

1. Require the State to determine which areas of the State are in need of LULU facilities. Once the State has determined that a LULU is needed within a COG's boundaries, require the new councils of governments (COGs) to negotiate which county within the COG's boundaries would take the facility. For example, the State could determine that a new prison is needed within SCAG's boundaries. While SCAG would be mandated to site a prison, it would be responsible for negotiating with its member counties where the facility will be located. Low income housing, homeless shelters, half-way houses, prisons, and hazardous waste and solid waste facilities are the types of facilities which the State could require COGs to site.

2. While the first alternative above would require the State to site LULUs, a second alternative would require COGs to site LULUs. The State would have no role under this alternative. Specifically, COGs could site LULUs either within their boundaries, or in other regions through negotiation with other COGs. This would take advantage of the fact that a facility

which is considered a LULU in one region may be considered an economic boon in another region.

One example of a possible inter-regional negotiation would be the siting of a prison. Currently, Orange County is unable to find a location for a much needed new prison due to high population density, high property values, and local opposition. In contrast, Del Norte County is seeking to locate an additional prison within its boundaries because of the jobs it would create in the county. Under this alternative, SCAG (the existing COG of which Orange County is a member) could either negotiate with Del Norte County (which currently does not belong to a COG) to site a different LULU in exchange for Del Norte siting a prison, or SCAG and its member counties could provide revenue incentives to Del Norte County for siting the prison. The counties within SCAG would also be responsible for financing the cost of transporting prisoners to the prison in Del Norte County. This alternative could also work between the counties within a single COG.

One cannot export all LULUs to other parts of the State. A sewage treatment plant, for example, must be close to the community it serves. However, COGs may be unwilling to site a controversial LULU, or may be incapable of siting the LULU against community opposition. Currently, the siting of LULUs is frequently blocked through the courts, or through the existing permit process. Requiring COGs rather than cities and counties to site LULUs will not reduce the opposition to these unwanted facilities.

Two procedures could be utilized to ease the process for siting a LULU. First, legal hurdles could be reduced by limiting the standing of some parties to challenge the siting of LULUs. In addition, a time limit could be established for planning and siting a facility. If this time limit were exceeded, or a COG refused to site the LULU, the State could step in and site the facility itself. A model for this already exists in the siting of hazardous waste incinerators under the Health and Safety Code, Section 25170.5. Under this section, local land use decisions regarding hazardous waste incinerators may be overturned by a State-convened appeals board. A similar State override mechanism for LULUs would assure that needed facilities are sited, rather than simply ignored or rejected due to political difficulties within the COG or the public.

Recommendation

The responsibility for siting LULU projects should be transferred from county or city government to the new COGs, which would be charged to create a voluntary market or trading mechanism to site these projects. To the extent that such a mechanism fails to site needed facilities and capacity, a default mechanism should be developed by OPR involving the appropriate agencies within Cal-EPA or other agencies.

The siting of LULUs by COGs is a preferable alternative to the State selecting sites, or to a State override. Because these latter possibilities are such blunt instruments, they would be politically and practically difficult to wield. However, the State should maintain its ability to site facilities in those instances when a COG fails to do so. Since COGs are composed of local officials, they better understand local needs and limitations, and are best suited to determine LULU locations.

Benefits

Regional needs would be better served through a cooperative effort to meet the requirements of all of the communities in a region. Statewide and regional goals would be met and better land use decisions would be made by elevating site selection from the county to the regional level. Given the inevitable compromises that would be made during the planning

process, siting at the regional level would not always result in the most efficient or economical choice. However, siting at the regional level may ease the political difficulties associated with the siting process. Environmental concerns would still be addressed through CEQA. With proper planning, a private owner/applicant of a hazardous or solid waste disposal facility would benefit from greater certainty in siting a facility before initiating the permitting process.

Problems

There are several theoretical and practical problems with COGs having siting responsibilities for LULUs. First, without permitting authority, it is difficult to see how a COG would be able to implement a siting decision. A locality could place conditions on a permit so as to make siting impossible. One solution would be for the State to limit the type of conditions that a locality could put on a permit application, as well as limit the grounds on which a permit could be denied.

Financial incentives could also be used to encourage acceptance of siting decisions. However, the problems in siting hazardous waste facilities have shown that in many cases the persuasive effect of such incentives may be minimal.

Another stumbling block is that no matter what mechanism is used for the planning and siting of LULUs, the ability of third parties to mount a legal challenge is always present. Legislation might be drafted to limit the standing of individuals and groups to challenge decisions made on LULUs.

Finally, under this recommendation, highly controversial projects would be sited by an organization (the new COG) whose members may not be directly answerable to individuals who may strongly disagree with siting decisions. In those instances in which the State were required to site a facility, those who object would focus their anger on elected officials in Sacramento, or on the Administration, and undoubtedly would work through the Legislature to try to overturn controversial decisions. However, without some significant change in procedures, siting of necessary facilities will continue to be held hostage to local pressure. An appropriate trading mechanism may help to avoid this.

2. "Fair Share" Housing

One of the most prominent components of California's current housing element is the regional "fair share" allocation. State law requires COGs to prepare Regional Housing Needs Plans for localities within their region. The Plan provides each locality with an allocation for its share of the region's projected housing need, by income group, over the five-year period of the element. The law provides a high degree of discretion to the local and regional authority in both development and implementation of the "fair share." The State Department of Housing and Community Development (HCD) reviews the allocation to verify that a region is meeting the housing needs for the projected population growth. Beyond this, HCD has little input into specific allocations.

Each local government in a region must revise its housing element to accommodate its allocation. However, cities and counties are generally unwilling to allow unconstrained residential development. According to HCD, as of December 1991, only 35% of the State's jurisdictions are in compliance with existing Housing Element law. The "fair share" process has simply become a paper exercise without resulting in a significant amount affordable housing.

Recommendation
Give new COGs the responsibility of creating a market mechanism to trade "fair share" housing allocations within a region.

These responsibilities would be similar to those of New Jersey's Council on Affordable Housing (COAH) which is required to establish criteria and guidelines to allow localities to determine their own "fair share" of needed housing, and to transfer some (up to 50%) of the obligation to a willing municipality through negotiations. In New Jersey, a locality may transfer up to one-half of its "fair share" to another locality through a Regional Contribution Agreement (RCA) certified by COAH.

While local government participation in the program is voluntary, localities that receive substantive certification from COAH for their housing elements/fair share plans are allowed additional protection from third-party litigation as well as access to state housing funds.

Benefits
Allowing local governments to trade or transfer their allocation would enable jurisdictions, that are built-up or for some other reason cannot or will not meet their allocation, the ability to barter with neighboring jurisdictions who can better accommodate this housing requirement. Furthermore, New Jersey's "fair share" program has proven to be a successful incentive in encouraging local government participation. This process has provided much needed funding for rehabilitating housing and infrastructure in decaying city center areas where the needs of lower-income households are most efficiently and effectively served.

3. Jobs-Housing Balance

Problem
There has been an increase in the amount of land zoned for commercial and industrial uses as local governments seek high-revenue generating, and low service cost, land uses in the wake of Proposition 13. This is the so-called fiscalization of land use.

As a result, many communities suffer distorted land use patterns and traffic congestion from an imbalance in local jobs and available housing. These inconsistent growth patterns are forcing many Californians to reside farther from their workplace; increasing commuting time, urban sprawl, and related problems of air quality and resource waste; and driving housing prices upward, through artificially limiting its supply.

According to the Department of Housing and Community Development's "1990 Statewide Housing Plan Update," the jurisdictions with growth controls that limit housing contained a total population of approximately 9.6 million people, or about 33% of all Californians, so this is not a minor problem.

Until there are clear revenue incentives or advantages to approval and zoning for residential property, local governments will continue to be encouraged to overzone for commercial development.

Recommendation
Give new COGs the responsibility of creating market mechanisms to tie jobs growth to housing within a region or subregion. This balance should encourage local governments to zone sufficient land for residential development to support anticipated growth, rather than require commercial developers to build or pay for new housing.

The creation of market mechanisms to tie housing to jobs growth within a region or subregion would encourage more rational local planning decisions. This would also provide specific direction to local governments on the amount of density in land that should be designated for residential use in relation to its regional need for housing and local housing needs generated by employment growth.

Alternatively or as a default mechanism, OPR planning guidelines can require local jurisdictions to zone sufficient land for residential development to meet expected jobs growth or approved commercial and industrial development.

4. Regional Environmental Mitigation Banking

Mitigation banking

Mitigation banking refers to a program to create, enhance, and preserve lands such as wetlands, agricultural lands, critical wildlife habitat, or timberlands for their natural resource values. Under a mitigation banking program, appropriate land is identified for acquisition by a public entity (this may include the purchase of all rights or simply development rights). When a proposed development project will have an impact on the type of resources that are intended to be protected under the mitigation banking system, the developer is required to assist the public entity in acquiring land within the identified area for the bank.

Most commonly, the developer pays the entity a fee which is used toward the acquisition of targeted land. A mitigation banking system may also award credits for developer actions which exceed minimum mitigation requirements. For example, a developer might purchase land within the target area and offer it in lieu of the fee. Or, a developer might rehabilitate habitat beyond minimum requirements and receive a credit which may be applied to future projects.

Recommendation

New COGs should be charged with the creation of regional mitigation banks to provide greater flexibility in protecting California's biological and natural resources.

Benefits of coordination through COGs

Establishing a mitigation bank from which the environmental impacts of development in one area would be offset by environmental protection in another would provide advantages to protecting natural resources. First, it provides long-term preservation of critical habitats and natural resources by setting aside those areas. Collaterally, if credits are awarded for excess mitigation, it can encourage development which avoids impacting sensitive environmental areas.

Second, such an arrangement can reduce the individual development costs of mitigating environmental impacts by spreading those costs regionally. Similarly, a mitigation banking program would reduce the delay and uncertainty currently related to development which impacts such resources. Third, a regional approach to land preservation improves the chances of preserving sufficient land to constitute sustainable habitat or resource areas. When mitigation is attempted on a local or project-by-project basis, it seldomly yields sufficient contiguous land to provide sustainable habitat. A regional approach also allows the public entity administering the bank a wider selection of land to include within the bank.

The COG would be uniquely positioned to gain the cooperation of State and federal, as well as local, agencies to develop mitigation banking programs where needed. This would fill a void that currently exists. Where practical, the COG could establish standard environmental credits which could be traded among projects so that a desirable level of environmental protection can be maintained region-wide.

Problems with coordination through COGs

Data on environmentally sensitive resource lands is currently lacking. As a result, it will take a considerable amount of time to implement mitigation banks. Also, it may be difficult for single local jurisdictions to accept mitigating the effect of a project on a regional basis, when such mitigation may have no positive effect within the jurisdiction's immediate boundaries. In addition, those jurisdictions with banked land may object if the jurisdiction's supply of developable land, and accordingly its potential tax base, is restricted. Further, a region may simply lack sufficient undeveloped area to support an effective banking program.

The effectiveness of a banking program in preserving or rehabilitating viable and sustainable habitat depends upon its consistent application throughout the region. State legislation could specify the method by which data is to be collected and applied. Resolving the other above problems would require empowering the new COGs (or some other agency) to authoritatively delineate the environmentally sensitive resource lands suitable for banking. A COG would wield de facto land use power as a result.

As the entity charged with administering the banking program, the COG would have to collect the fees charged developers by the local jurisdictions and oversee land acquisition and enhancement activities. These would be new powers not commonly held by regional agencies. This problem might be avoided through the creation of a special district or quasi-public land trust dedicated to administering the habitat banking program under the auspices of the COG. New State legislation would be needed in order to properly enable the creation of such entities.

Establishment of a system of standard environmental credits and of a market for trading such credits is unproven and may not be feasible, particularly where the potential value of such credits would be low. Also, in regions where only a limited amount of land is potentially suitable for banking, credits may not offer any advantages for the entity administering the bank. An approach to solving this problem might be to establish one or more habitat mitigation banking demonstration programs prior to enacting statewide legislation. These testbeds would provide practical experience in mitigation banking. The prime disadvantage to this approach is that it delays the decision on whether to enact full-blown programs, creating uncertainty.

Funding sources

Funding for COG participation in mitigation banking would come from participating developers and local agencies. Care should be taken in designing fee schedules not unreasonably to burden new development, particularly residential.

5. COG Certification of Local Comprehensive Plans

Purpose

The success of a comprehensive system of planning that is integrated at all levels of government depends upon compliance with overall State requirements at all levels of government. The State has a direct interest in ensuring that local comprehensive plans

comply with State growth management goals and standards. In addition, if State funding decisions are to be based upon compliance, as proposed, the State must have a means of determining that local plans do comply. However, State review of the more than 500 individual local comprehensive plans is not practical.

The purpose of this proposal is to ensure that State requirements are complied with and that those local plans which do comply can be so certified. The COG, as a regionally-based entity is well placed to review local comprehensive plans. Being closer to the local level than the State, the COG would be familiar with local opportunities and constraints in meeting State requirements. Further, the COG would be in a position to apply State requirements in a regional context, something that State review of individual local comprehensive plans would find difficult.

Recommendation

Cities and counties may be required to submit their local comprehensive plans to new COGs for review and certification of consistency with State growth management goals and standards.

Benefits of certification

Local self-interest limits the effectiveness of having the agency which prepared and adopted a local comprehensive plan to self certify the consistency of that plan with State goals and standards. Delegation by the State of review responsibility to a new COG ensures that local comprehensive plans will be reviewed by a relatively neutral party, allows the local plan to be evaluated in the context of other local comprehensive plans within the region, and presumably places the review in the hands of an agency that is knowledgable about both State requirements and local activities. The power to certify plans would give new COGs greater ability to encourage local comprehensive plans to meet State requirements. It should also encourage local governments to work closely with the COGs, thereby injecting a greater regional consciousness into local planning.

Problems with certification

COGs are made up of local government representatives. There may be a tendency for such a body to certify local comprehensive plans even when it is doubtful. Further, the power to certify local comprehensive plans may evolve into de facto local land use powers. An alternative may be self-certification by each local government.

Funding mechanisms

There is no specific source of funding for reviewing local plans, because this is currently not a function of COGs. This recommendation would establish a new COG responsibility that requires a consistent source of funding. In order to fund the regular review of local comprehensive plans, legislation should enable strengthened COGs to charge their members yearly dues for that purpose.

6. Submittal of Regional Reports

Recommendation

Each new COG should be required to submit, on a regular basis, a regional report to OPR which describes its region's aggregate progress in meeting State growth management goals and standards.

The State has a direct interest in ensuring that State growth management goals and standards are carried out. New COGs would be responsible for preparing certain regional plans

(e.g., regional transportation improvement plan and airport land use plan) in accordance with State goals and standards, as well as certifying the consistency of local comprehensive plans with State requirements. Accordingly, they are in a key position to know the success of their region in meeting State requirements.

In order for the State to monitor the effectiveness and implementation of its goals and standards at the regional and local levels, the new COGs should provide OPR with regular reports. These reports should be based upon the local comprehensive plans submitted to the COG by local jurisdictions within its area, and should report the area's aggregate process in meeting goals and standards. COGs should not have independent authority to devise regional plans or strategies unless desired by their local members.

Benefits of submitting regional reports

The feedback provided by new COGs would allow the State to realistically project trends, assess growth management program effectiveness, and fine-tune the State's overall growth management system as necessary. Regular reporting would allow OPR to evaluate, for the benefit of both the Governor and the Legislature, the effects of State goals and standards. This would be particularly important if funding decisions are to be based upon compliance with State policies, as proposed. Regular reports would also offer a benchmark against which regional performance in meeting State requirements could be measured over time. In addition, OPR would provide a convenient single point of contact for regional agencies at the State level.

Problems of submitting regional reports

Current law under the California Government Code requires cities, counties and "regional planning agencies" to file an annual report with OPR detailing their "transactions and recommendations" during the previous year. Compliance with this requirement has been nearly non-existent. Assuming that compliance improves, unless reports are standardized the information received from the different COGs may be difficult to correlate. Further, a reporting program may be seen by some as State intrusion into regional, and by inference local, affairs and an exercise in bureaucratic paperwork. The Council rejects such a characterization, as the State has a legitimate interest in seeing that its policies are implemented.

CONCLUSION

Not as regional governments nor as independent authorities, and not armed with either taxing power or general land use authority or substantial operating authority, reformed Councils of Governments can serve as a useful bridge between the State and local government, based on their traditional and existing roles as planning agencies and local government forums. These existing roles should be built upon and strengthened through limited consolidation of other existing regional or county bodies, and through additional functions to coordinate and mediate member local governments.

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER W-2-91

WHEREAS, California has experienced extremely rapid population growth, growing by over six million people in the 1980s alone and tripling its population in two generations, and such growth is expected to continue;

WHEREAS, such growth has put great pressure on California's existing transportation, sewage, and other infrastructure systems, on the delivery of education, social welfare, and other human services, and on conservation of open space and other natural resources;

WHEREAS, growth also affords Californians the opportunity to plan more intelligently for the future of our state in a partnership between state and local government, and the private sector;

WHEREAS, growth can also be a benefit to the state in contributing to a sound economy, a rich and diverse culture, and the human energy and capital needed to lead California into the 21st century;

WHEREAS, cooperation and consensus are necessary to accommodate growth in order to maximize its benefits and minimize negative impact;

NOW, THEREFORE, I, PETE WILSON, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

Section 1. DIRECTOR OF THE GOVERNOR'S OFFICE OF PLANNING AND RESEARCH.

(a) Among his or her other duties, the Director of the Governor's Office of Planning and Research shall serve as my advisor on growth and growth management issues, and shall have direct access to my office.

(b) The Director shall present recommendations to me to ensure the appropriate state role in addressing growth and growth management issues, including, as they relate thereto:

(1) maximization of appropriate local government input and decision-making on growth issues, consistent with state, regional, and neighboring communities' interests;

(2) treatment of both current residents and newcomers, and all social and ethnic communities, fairly and on a non-exclusionary basis;

(3) preservation and provision of open space, parks, and recreation areas;

(4) protection of California's air, water, and other natural resources;

(5) long-range, statewide planning for necessary water and energy supplies and waste disposal,

(6) affordable housing,

(7) comprehensive review of state and local financing mechanisms as they affect local land-use decisions,

(8) effective regional and statewide transportation networks,

(9) maintenance of a favorable business environment, and

(10) use of cooperation and incentives rather than coercion to achieve growth management goals.

(c) The Director shall serve as my liaison with appropriate state agencies and departments, local city and county governments, and the private sector on growth and growth management issues.

(d) The Director shall serve as my spokesman on growth management issues.

(e) The Director shall chair the Governor's Interagency Council on Growth Management established hereunder.

(f) The Director shall consult with the Director of the Department of Finance, the Secretary of Business, Transportation, and Housing, the Secretary of Resources, the Environmental Affairs Secretary, and other appropriate state agency and department heads on policy and fiscal recommendations affecting state and local growth and growth management programs and policies.

(g) The Director shall be provided the necessary staff support in order to fulfill the duties and responsibilities established hereunder.

Section 2. GOVERNOR'S INTERAGENCY COUNCIL ON GROWTH MANAGEMENT.

(a) The Governor's Interagency Council on Growth Management (hereafter referred to as the Council) is established to provide recommendations to me on growth and growth management issues, and specifically without limitation on increased coordination, cooperation, and collaboration between state and local governmental, private sector, and other public entities.

(b) Members of the Council shall include the Director of the Department of Finance, the Secretary of Business, Transportation, and Housing, the Secretary of Resources, the Secretary of Environmental Affairs, the Secretary of Health and Welfare, appropriate departments within the jurisdiction of those agencies, and the Director of the Governor's Office of Planning and Research.

(c) The Council shall solicit views and recommendations on growth and growth management issues from all citizens and sectors of California society as it may deem feasible and appropriate.

(d) The Director of the Governor's Office of Planning and Research shall serve as Chair of the Council and shall advise me of the progress of the Council.

(e) Each member of the Council shall designate a professional staff member of assist the Council in its duties.

(f) The Council shall meet at least once per month, beginning in February 1991, and shall be attended at no less than the deputy level.

(g) Members of the Council shall serve without compensation.

(h) The Council shall by January 1, 1992 present recommendations to the Governor.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 22nd day of January 1991.

Governor of California

ATTEST:

Secretary of State

GROWTH MANAGEMENT MEETINGS

(partial list)

Business, Labor, and Civic Organizations

AFL-CIO Labor Federation
American Planning Association, California Chapter
American Institute of Architects
Association of California Water Agencies Board
Association of General Contractors
California Association of Realtors
California Building Industry Association
California Building Officials (CALBO)
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Contract Cities Association
California Council on Science and Technology
California Housing Council
California Manufacturers Association
California Planning Roundtable
California Rural Legal Assistance
California Taxpayers' Association (Cal-Tax)
California Transit Association
Capitol Women for Agriculture
CLOUT (San Bernardino County)
Council on Competiveness
CSUS Consensus Group
Leadership Visalia
League of Women Voters
Local Government Commission
Los Angeles Chamber of Commerce
Kern County Breakfast Group
Northeastern California Forum
Orange County Building Industry Association
Riverside Monday Morning Group
San Diego Chamber of Commerce
San Francisco Chamber of Commerce
2000 Partnership (Los Angeles)
Women's Business Conference

Environmental Organizations

California Environmental Trust
California Preservation Foundation
Environmental Defense Fund
Greenbelt Alliance
Mountain Lion Foundation
Nature Conservancy
Planning and Conservation League (PCL)
Sierra Club
Sierra Summit

Local Government

Association of Bay Area Governments (ABAG)
California Association of Councils of Governments (CALCOG)
California Contract Cities Association
Contra Costa County Transportation Authority
County Planners Association
County Supervisors Association of California/ California State Association of Counties (CSAC)
County Planning Directors Association
Glenn, Yolo, Sacramento, Solano, Mendocino, Contra Costa, Ventura, San Diego, and Butte County Supervisors
Kern Council of Governments (KernCOG)
League of California Cities - Board of Directors Special Committee on Growth Management and Regionalism
Mayor and Members of Oakland City Council
Orange County Division, League of Cities
Regional Council of Rural Counties
San Diego Association of Governments (SANDAG)
San Joaquin 2000
Southern California Association of Governments (SCAG)
Stanislaus County Area Association of Governments

Other Government

Association of Resource Conservation Districts
California Transportation Commission
U.S. Bureau of Land Management
University of California
UCLA Policy Forum - Land Use Planning Conference
University of California Planners Group
Regional Air Quality Management/Air Pollution Control Districts

Hearings

Bakersfield
Fresno
Los Angeles
Modesto
Redding
Riverside
Sacramento
San Diego
San Francisco
San Jose
Santa Ana
Santa Barbara
Santa Rosa

INTERIM PUBLICATIONS
FROM THE GOVERNOR'S GROWTH MANAGEMENT COUNCIL

The following publications prepared by Governor Pete Wilson's Council on Growth Management and the Office of Planning and Research are now available to the public.

Hearing Records:

Riverside
Santa Rosa
Modesto
Fresno
Santa Barbara
Santa Ana
Bakersfield
Los Angeles
San Jose
Sacramento
Redding
San Diego
San Francisco

Publications:

- *Local and Regional Perspectives on Growth Management*
- *1991 Local Government Growth Management Survey*
- *Other States' Growth Management Experiences*
- *Models of Regional Government*
- *Analysis of the 1990 Census in California*
- *Growth Management and Public Opinion (Includes Staff summaries from the 13 hearings)*
- *Urban Growth Boundaries*
- *Planning and Growth Management*
- *Conflict Resolution and Mechanisms in Growth Management*
- *Growth Management Legislative Proposals*
- *Growth Management and Environmental Quality*
- *The Regions of California*
- *Statewide and Regional Transportation Planning/Congestion Management Plans and Growth Management*
- *Urban Growth Management Through Transportation Corridors and Transportation Financing Districts*
- *Agricultural Conservation and Growth Management*
- *Statewide Plan Coordination in California*

The following publications are planned for release in the near future:

- *Growth Management and Air Quality*
- *Growth and Long-Range Water Policy*
- *California's Future Economy*
- *California Rural Development*
- *Energy and Growth Management*
- *Land Use and Local Finance*